

WEDNESDAY, APRIL 11, 2012

SEVENTY-FIRST LEGISLATIVE DAY

The House met at 9:00 a.m. and was called to order by Madam Speaker Harwell.

The proceedings were opened with prayer by Ryan Johnston, Faith Baptist Church, Bartlett, TN.

Representative Lollar led the House in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present..... 98

Representatives present were Alexander, Armstrong, Brooks H, Brooks K, Brown, Butt, Campbell, Camper, Carr, Casada, Cobb, Coley, Cooper, Curtiss, Dean, DeBerry J, DeBerry L, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Favors, Fitzhugh, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Hardaway, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones, Keisling, Kernell, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McDonald, McManus, Miller D, Miller L, Montgomery, Moore, Naifeh, Niceley, Odom, Parkinson, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sargent, Sexton, Shaw, Shepard, Shipley, Sontany, Sparks, Stewart, Swann, Tidwell, Tindell, Todd, Towns, Turner J, Turner M, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 98

EXCUSED

The Speaker announced that the following member(s) has/have been excused, pursuant to request(s) under **Rule No. 20**:

Representative Bass; business

COMMUNICATION
April 11, 2012

Rep. Matthew Hill
25 Legislative Plaza
Nashville, TN 37243

Re: NCSL –Strengthening the Health Care Safety Net Through Interagency Cooperation, Planning and Policy

Dear Rep. Hill:

4801

This is a draft version of the House Journal and is to be considered UNOFFICIAL. It will become the official record of the House after it has been adopted by the House.

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY UNOFFICIAL VERSION

As Speaker of the House of Representatives, I am requesting you to attend the NCSL meeting entitled, “ Strengthening the Health Care Safety Net Through Interagency Cooperation, Planning and Policy”, which will be held June 18, 2012 through June 20, 2012 in New Orleans, Louisiana.

I am forwarding a copy of this letter to the Joanne Stroud at NCSL’s Denver office. I have attached information regarding the meeting.

As always, I am confident that you will represent the Tennessee House of Representatives with the high standard of professionalism, dedication and integrity that our citizens deserve and expect of their public servants.

Best Wishes,

/s/ Speaker Beth Harwell

cc: Joanne Stroud – NCSL Denver Office
Lt. Gov. Ron Ramsey
Cody York, 8th Floor, Snodgrass Tower
Jeremy Harrell, G-7 State Capitol Bldg.
Gregory Gleaves
Connie Ridley
Joseph A. Barnes
Tammy Letzler

**COMMUNICATION
April 11, 2012**

Rep. Mike Harrison
206A War Memorial Building
Nashville, TN 37243

Re: NCSL –Strengthening the Health Care Safety Net Through Interagency Cooperation, Planning and Policy

Dear Rep. Harrison:

As Speaker of the House of Representatives, I am requesting you to attend the NCSL meeting entitled, “ Strengthening the Health Care Safety Net Through Interagency Cooperation, Planning and Policy”, which will be held June 18, 2012 through June 20, 2012 in New Orleans, Louisiana.

I am forwarding a copy of this letter to the Joanne Stroud at NCSL’s Denver office. I have attached information regarding the meeting.

As always, I am confident that you will represent the Tennessee House of Representatives with the high standard of professionalism, dedication and integrity that our citizens deserve and expect of their public servants.

Best Wishes,

/s/ Speaker Beth Harwell

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY UNOFFICIAL VERSION

cc: Joanne Stroud – NCSL Denver Office
Lt. Gov. Ron Ramsey
Cody York, 8th Floor, Snodgrass Tower
Jeremy Harrell, G-7 State Capitol Bldg.
Gregory Gleaves
Connie Ridley
Joseph A. Barnes
Tammy Letzler

SPONSORS ADDED

Under **Rule No. 43**, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Resolution No. 195 Rep(s). Hill and Dean as prime sponsor(s).

House Resolution No. 240 Rep(s). Pruitt as prime sponsor(s).

House Joint Resolution No. 891 Rep(s). L. DeBerry as prime sponsor(s).

House Bill No. 442 Rep(s). Richardson as prime sponsor(s).

House Bill No. 2384 Rep(s). Hurley, Holt, Halford, R. Williams, Hall, Marsh, Wirgau, Butt, Maggart, Shipley, Powers, Gotto, D. Miller, Swann, Sargent and White as prime sponsor(s).

House Bill No. 2664 Rep(s). Butt, Shipley and Towns as prime sponsor(s).

House Bill No. 2823 Rep(s). Favors, Hardaway, McManus, Parkinson and Lollar as prime sponsor(s).

House Bill No. 2890 Rep(s). Favors, Hardaway, Towns and Shaw as prime sponsor(s).

House Bill No. 3383 Rep(s). Eldridge, Dennis and Rich as prime sponsor(s).

House Bill No. 3504 Rep(s). Harrison as prime sponsor(s).

House Bill No. 3611 Rep(s). McCormick as prime sponsor(s).

House Bill No. 3760 Rep(s). Montgomery and Faison as prime sponsor(s).

REQUEST TO BE ADDED AS SPONSOR

The following member(s) requested to add their name(s) as sponsor(s) as indicated below, the prime sponsor having agreed to such addition. Sponsorship was not granted since request was made after passage/adoption of said bill/resolution:

House Bill No. 3808: Rep(s). Cobb

**MESSAGE FROM THE SENATE
April 10, 2012**

MADAM SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 723, 727, 728, 729, 730 and 732; adopted, for the House's action.

RUSSELL A. HUMPHREY, Chief Clerk

Senate Joint Resolution No. 723 -- Memorials, Recognition - Taylor Lindsay, 2011 Miss Polk Salad. by *Yager, *Crowe, *Ford.

Senate Joint Resolution No. 727 -- Memorials, Academic Achievement - Dakota Scott Rakestraw, Valedictorian, Stewart County High School. by *Barnes, *Herron.

Senate Joint Resolution No. 728 -- Memorials, Academic Achievement - Clarissa Hsin en Wu, Salutatorian, Stewart County High School. by *Barnes, *Herron.

Senate Joint Resolution No. 729 -- Memorials, Professional Achievement - Dr. Harry McSween, J. Lawrence Smith Medal. by *Massey, *Campfield, *McNally, *Overbey.

Senate Joint Resolution No. 730 -- Memorials, Recognition - Mary Ann Duncan, 2012 Super Senior. by *Yager.

Senate Joint Resolution No. 732 -- Memorials, Death - Tutt S. Bradford. by *Overbey.

**MESSAGE FROM THE SENATE
April 10, 2012**

MADAM SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 1631, 1688, 2484, 2591, 2596, 2633, 2693, 2845, 2912, 2967, 3174, 3331, 3503, 3594, 3596, 3629, 3652 and 3742; passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk

Senate Bill No. 1631 -- Education, Dept. of - As introduced, requires department to utilize scale of 100% when reporting progress in the Tennessee report card for schools beginning with the report for the 2012-2013 school year. - Amends TCA Title 49. by *Marrero, *Harper. (*HB1944 by *Towns)

Senate Bill No. 1688 -- Schools, Charter - As introduced, requires public charter school's annual renewal application to include the number of students who attended the school in the most recently completed academic year and the schools that those students attended prior to enrolling at the charter school. - Amends TCA Title 49. by *Faulk, *McNally, *Overbey. (*HB1970 by *Swann, *Hardaway, *Towns, *Fitzhugh, *Montgomery, *Richardson, *Cooper B, *White)

Senate Bill No. 2484 -- Education - As introduced, makes the Move on When Ready Act inapplicable in Williamson County. - Amends TCA Title 49, Chapter 6, Part 83. by *Johnson. (*HB2235 by *Casada)

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY UNOFFICIAL VERSION

Senate Bill No. 2591 -- Education - As introduced, requires interest inventories to be administered to high school juniors and college sophomores to assist students in career decisions. - Amends TCA Title 49. by *Marrero, *Ford, *Harper, *Tate. (*HB2167 by *Coley)

***Senate Bill No. 2596** -- Insurance Companies, Agents, Brokers, Policies - As introduced, exempts certain insurers of commercial risk insurance from filing with the commissioner of commerce and insurance all rates, supplementary rate information, policy forms and endorsements; requires such insurers to place a written disclaimer of such exemption in the policy or application. - Amends TCA Title 56, Chapter 5. by *Ketron. (HB3112 by *Curtiss)

Senate Bill No. 2633 -- Licenses - As introduced, increases the minimum fees for unrestricted initial staff leasing company licenses and renewals thereof from \$100 for residents and \$150 for nonresidents to \$150 and \$200 respectively. - Amends TCA Title 56, Chapter 56 and Title 62, Chapter 43. by *Johnson. (*HB2747 by *Haynes)

Senate Bill No. 2693 -- Teachers, Principals and School Personnel - As introduced, prohibits abolition of a position as a means of avoiding dismissal charges against a teacher; specifies certain procedures for rejecting a teacher whose position has been abolished for reemployment. - Amends TCA Title 49, Chapter 5, Part 5. by *Haynes, *Barnes. (*HB2738 by *Pitts)

Senate Bill No. 2845 -- Alcoholic Beverages - As introduced, removes obsolete provisions; creates license for military personnel living abroad to ship wine to this state. - Amends TCA Section 57-1-111; Title 57, Chapter 3; Section 57-2-101; Section 57-4-101 and Section 57-4-203. by *Yager, *Ford. (*HB2987 by *Haynes)

***Senate Bill No. 2912** -- Corporations, For Profit - As introduced, extends the attorney general and reporter's deadline of objection for any proposed public benefit hospital conveyance transaction from 45 days to 60 days and provides an additional 45-day extension to review and consider the transaction. - Amends TCA Title 48, Chapter 68. by *Overbey. (HB3275 by *Harrison, *Sargent)

***Senate Bill No. 2967** -- Local Education Agencies - As introduced, requires local board of education to approve budget for operation of county schools after the county legislative body's approval in accordance with Local Option Budgeting Law of 1993. - Amends TCA Section 49-2-101. by *Tracy. (HB3238 by *Brooks H)

Senate Bill No. 3174 -- Economic and Community Development - As introduced, requires the commissioner of economic and community development and the commissioner of revenue to study and report to the general assembly the effect of tax incentives on economic development in cities and counties; report to cover past five years; report due September 15, 2012. - Amends TCA Title 67. by *Bell, *Berke, *Stewart. (*HB3322 by *Watson, *Brooks K)

Senate Bill No. 3331 -- Comptroller, State - As introduced, requires state agency officials with knowledge of a theft, forgery, fraud or similar unlawful act or abuse of public money or services to report such information to the comptroller. - Amends TCA Title 8, Chapter 4, Part 1. by *Ketron, *Berke. (*HB3522 by *Gotto)

Senate Bill No. 3503 -- Education, Higher - As introduced, removes public institutions of higher education from requirements of blind vending facilities. - Amends TCA Section 49-8-118 and Section 71-4-502. by *Tate, *Ketron. (*HB3584 by *Carr)

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY UNOFFICIAL VERSION

Senate Bill No. 3594 -- State Employees - As introduced, provides that the disciplinary counsel for the court of the judiciary is a state employee for purposes of defense by the attorney general when a civil action is commenced for an act or omission performed during the course of duties for the court of judiciary. - Amends TCA Section 8-42-103. by *Faulk. (*HB3120 by *Dennis)

Senate Bill No. 3596 -- Taxes, Real Property - As introduced, allows notice by delivery service alternatives to certified or registered mail, return receipt requested as authorized by federal law in regard to notice to a taxpayer of a tax lien suit. - Amends TCA Title 67, Chapter 5. by *Watson, *Finney L. (*HB3527 by *Haynes)

Senate Bill No. 3629 -- Sentencing - As introduced, requires that a person convicted of committing a dangerous felony involving a firearm who is subsequently convicted of the same serve a minimum of 15 years imprisonment at 100 percent. - Amends TCA Title 39, Chapter 17 and Title 40. by *Watson, *Norris. (*HB2904 by *Dean)

***Senate Bill No. 3652** -- Judges and Chancellors - As introduced, requires speakers to appoint all nine members of the judicial evaluation commission since the judicial council no longer exists. - Amends TCA Title 17, Chapter 4, Part 2. by *Bell, *Ramsey, *Ketron. (HB3691 by *Dennis)

***Senate Bill No. 3742** -- Traffic Safety - As introduced, requires members of the highway patrol investigating motor vehicle accidents on interstates to note on the accident report whether a physical barrier would have prevented the accident or would have prevented deaths or serious bodily injury. - Amends TCA Title 55, Chapter 10. by *Herron. (HB3749 by *Turner M)

**MESSAGE FROM THE SENATE
April 10, 2012**

MADAM SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 499; for the signature of the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk

**SIGNED
April 10, 2012**

The Speaker announced that she had signed the following: Senate Joint Resolution(s) No(s). 499.

**ENROLLED BILLS
April 10, 2012**

MADAM SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared House Joint Resolution(s) No(s). 557, 577, 649, 664, 695, 812, 823, 842 and 846; and find same correctly enrolled and ready for the signatures of the Speakers.

BETTY KAY FRANCIS, Chief Engrossing Clerk

**SIGNED
April 10, 2012**

The Speaker announced that she had signed the following: House Joint Resolution(s) No(s). 557, 577, 649, 664, 695, 812, 823, 842 and 846.

BETTY KAY FRANCIS, Chief Engrossing Clerk

**ENROLLED BILLS
April 10, 2012**

MADAM SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared House Resolution(s) No(s). 236, 238 and 239; and find same correctly enrolled and ready for the signature of the Speaker.

BETTY KAY FRANCIS, Chief Engrossing Clerk

**SIGNED
April 10, 2012**

The Speaker announced that she had signed the following: House Resolution(s) No(s). 236, 238 and 239.

BETTY KAY FRANCIS, Chief Engrossing Clerk

**ENROLLED BILLS
April 10, 2012**

MADAM SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared House Bill(s) No(s). 2237, 2456, 2612, 2806, 2861, 2961, 2978, 3323, 3443, 3505, 3581, 3717 and 3792; and find same correctly enrolled and ready for the signatures of the Speakers.

BETTY KAY FRANCIS, Chief Engrossing Clerk

**MESSAGE FROM THE SENATE
April 10, 2012**

MADAM SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 721, 722 and 726; for the signature of the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk

**MESSAGE FROM THE SENATE
April 10, 2012**

MADAM SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 557, 577, 649, 664, 695, 812, 823, 842 and 846; signed by the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk

**SIGNED
April 10, 2012**

The Speaker announced that she had signed the following: Senate Joint Resolution(s) No(s). 721, 722 and 726.

**REPORT OF CHIEF ENGROSSING CLERK
April 10, 2012**

MADAM SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: House Joint Resolution(s) No(s). 557, 577, 649, 664, 695, 812, 823, 842 and 846; for his action.

BETTY KAY FRANCIS, Chief Engrossing Clerk

**MESSAGE FROM THE GOVERNOR
April 10, 2012**

MADAM SPEAKER: I am directed by the Governor to return herewith: House Bill(s) No(s). 2381, 2437, 2441, 2658, 2789, 2834, 3007 and 3266; with his approval.

HERBERT H. SLATTERY III, Counsel to the Governor

**MESSAGE FROM THE GOVERNOR
April 10, 2012**

MADAM SPEAKER: I am directed by the Governor to return herewith: House Bill(s) No(s). 368; without his signature.

HERBERT H. SLATTERY III, Counsel to the Governor

**MESSAGE FROM THE SENATE
April 11, 2012**

MADAM SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 671; adopted, for the House's action.

RUSSELL A. HUMPHREY, Chief Clerk

***Senate Joint Resolution No. 671** -- Naming and Designating - "Child Abuse Prevention Month," April 2012. by *Burks, *Marrero, *Barnes, *Beavers, *Bell, *Berke, *Campfield, *Crowe, *Faulk, *Finney L, *Ford, *Gresham, *Harper, *Haynes, *Henry, *Herron, *Johnson, *Kelsey, *Ketron, *Kyle, *Massey, *McNally, *Norris, *Overbey, *Roberts, *Southerland, *Stewart, *Summerville, *Tate, *Tracy, *Watson, *Yager, *Ramsey.

**MESSAGE FROM THE SENATE
April 11, 2012**

MADAM SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 759; adopted, for the House's action.

RUSSELL A. HUMPHREY, Chief Clerk

Senate Joint Resolution No. 759 -- Memorials, Public Service - Senator Joe M. Haynes, Jr. by *Henry, *Harper, *Johnson, *Berke, *Finney L, *Kyle, *Marrero, *Herron, *Stewart, *Burks, *Tate, *Ford, *Barnes, *Norris, *Southerland, *Gresham, *Kelsey, *Beavers, *Watson, *Tracy, *Summerville, *Massey, *Overbey, *Faulk, *Crowe, *Yager, *McNally, *Ketron.

PERSONAL ORDERS

RECOGNITION IN THE WELL

Representative Ragan, joined by Representative Hurley, was recognized in the Well in order to introduce Ziyuan Liu and Cassee Cain, 2011 Siemens Competition in Math, Science, and Technology Grand Prize Team Winners.

RESOLUTION READ

The Clerk read House Joint Resolution No. 569, previously adopted on January 19, 2012, which honored and congratulated Ziyuan Liu, Siemens Competition in Math, Science, and Technology Grand Prize Team Winner 2011.

House Joint Resolution No. 569 -- Memorials, Professional Achievement - Ziyuan Liu, Siemens Competition in Math, Science, and Technology Grand Prize Team Winner 2011. by *Ragan.

RESOLUTION READ

The Clerk read House Joint Resolution No. 583, previously adopted on January 19, 2012, which honored and congratulated Cassee Cain, Siemens Competition in Math, Science, and Technology Grand Prize Team Winner 2011.

House Joint Resolution No. 583 -- Memorials, Professional Achievement - Cassee Cain, Siemens Competition in Math, Science, and Technology Grand Prize Team Winner 2011. by *Ragan.

RECOGNITION IN THE WELL

Representative R. Williams was recognized in the Well in order to introduce members of Prevent Child Abuse Tennessee Staff: Carla Snodgrass, Kristen Rector, Marcia Slagle, Abbey Chamness, Brianna Kourajian and Claudia Oviedo. Carla Snodgrass was recognized for remarks.

RULES SUSPENDED

Rep. R. Williams moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 766 out of order, which motion prevailed.

House Joint Resolution No. 766 -- Naming and Designating - "Child Abuse Prevention Month," April 2012. by *Williams R, *Brooks H, *Brooks K, *Parkinson, *Turner J, *Jones S, *Richardson, *Forgety, *Swann, *White, *Alexander, *DeBerry J.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Rep. R. Williams, the resolution was adopted by the following vote:

Ayes 97
Noes..... 0

Representatives voting aye were: Alexander, Armstrong, Brooks H, Brooks K, Brown, Butt, Campbell, Carr, Casada, Cobb, Coley, Cooper, Curtiss, Dean, DeBerry J, DeBerry L, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Favors, Fitzhugh, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Hardaway, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones, Keisling, Kernell, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McDonald, McManus, Miller D, Miller L, Montgomery, Moore, Naifeh, Niceley, Odom, Parkinson, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sargent, Sexton, Shaw, Shepard, Shipley, Sontany, Sparks, Stewart, Swann, Tidwell, Tindell, Todd, Towns, Turner J, Turner M, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 97

A motion to reconsider was tabled.

INTRODUCTION RESOLUTIONS

On motion, pursuant to **Rule No. 17**, the resolution(s) listed was/were introduced and referred to the appropriate Committee:

***House Joint Resolution No. 870** -- General Assembly, Statement of Intent or Position - Expresses desire of general assembly to see monument honoring David Crockett erected at prominent location on grounds of state capitol. by *Kernell, *Hawk.

House State and Local Government Committee

***House Joint Resolution No. 872** -- Highway Signs - "Razor John "Doc" Campbell Memorial Bridge," S.R. 91 in Carter County. by *Williams K.

House State and Local Government Committee

RESOLUTIONS

Pursuant to **Rule No. 17**, the following resolution(s) was/were introduced and placed on the Consent Calendar for April 12, 2012:

House Resolution No. 241 -- Memorials, Recognition - Reverend Adric Lane. by *Gilmore.

House Joint Resolution No. 873 -- Memorials, Interns - Kristen Lawson. by *Johnson C.

House Joint Resolution No. 874 -- Memorials, Sports - Friendship Christian School boys' basketball team, Class A state championship. by *Pody.

House Joint Resolution No. 875 -- Memorials, Academic Achievement - Adrian Ricketts, Salutatorian, Friendship Christian School. by *Pody.

House Joint Resolution No. 876 -- Memorials, Academic Achievement - Emily Sherrill, Valedictorian, Friendship Christian School. by *Pody.

House Joint Resolution No. 877 -- Memorials, Academic Achievement - Meagen Amber Soper, Top Ten, Volunteer High School. by *Harrison.

House Joint Resolution No. 878 -- Memorials, Academic Achievement - Payton Keith Arnold, Top Ten, Volunteer High School. by *Harrison.

House Joint Resolution No. 879 -- Memorials, Academic Achievement - Brandi Michelle Lewis, Top 10, Volunteer High School. by *Harrison.

House Joint Resolution No. 880 -- Memorials, Academic Achievement - Jacob Spradley, Top Ten, Volunteer High School. by *Harrison.

House Joint Resolution No. 881 -- Memorials, Academic Achievement - William James Powell, Top Ten, Volunteer High School. by *Harrison.

House Joint Resolution No. 882 -- Memorials, Academic Achievement - Mollie Love Carr, Top Ten, Volunteer High School. by *Harrison.

House Joint Resolution No. 883 -- Memorials, Academic Achievement - Andrew Mark Peters, Top Ten, Volunteer High School. by *Harrison.

House Joint Resolution No. 884 -- Memorials, Academic Achievement - Amanda Paige McNally, Top Ten, Volunteer High School. by *Harrison.

House Joint Resolution No. 885 -- Memorials, Academic Achievement - Aurora Leann Baker, Top Ten, Volunteer High School. by *Harrison.

House Joint Resolution No. 886 -- Memorials, Academic Achievement - Caitlin Nicole Ladd, Top 10, Volunteer High School. by *Harrison.

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY UNOFFICIAL VERSION

House Joint Resolution No. 887 -- Memorials, Recognition - Alcoa Middle School, Tennessee State Scholastic Team Chess Champions. by *Swann, *Ramsey.

House Joint Resolution No. 888 -- Memorials, Interns - Carlee Greene. by *Ramsey.

House Joint Resolution No. 889 -- Memorials, Death - James Harvey Shelton. by *Rich, *Naifeh.

House Joint Resolution No. 892 -- Memorials, Retirement - Melvin C. Everette. by *Naifeh, *Hensley, *Fitzhugh, *Turner M, *Shepard, *McDaniel, *Harrison, *Williams K, *Campbell, *Armstrong, *Tindell, *DeBerry J, *Curtiss, *Windle, *Odom, *Pruitt, *Gilmore, *Moore, *Towns, *Cooper B.

House Joint Resolution No. 893 -- Memorials, Personal Achievement - Phillip Alexander Seeley, Eagle Scout. by *Cobb.

House Joint Resolution No. 894 -- Memorials, Personal Achievement - Christopher M. Randall, Eagle Scout. by *Cobb.

House Joint Resolution No. 895 -- Memorials, Academic Achievement - Zachary Timothy Dye, Valedictorian, Rhea County High School. by *Cobb.

House Joint Resolution No. 896 -- Memorials, Academic Achievement - Ashley Truong, Valedictorian, Kingsbury High School. by *Parkinson.

House Joint Resolution No. 897 -- Memorials, Academic Achievement - Keriyon Hunter, Salutatorian, Kingsbury High School. by *Parkinson.

House Joint Resolution No. 898 -- Memorials, Academic Achievement - Zalondria Michelle Graham, Valedictorian, Craigmont High School. by *Parkinson.

House Joint Resolution No. 899 -- Memorials, Academic Achievement - Luan Tran, Salutatorian, Craigmont High School. by *Parkinson.

House Joint Resolution No. 900 -- Memorials, Academic Achievement - Irvin Mull, Valedictorian, Northside High School. by *Parkinson.

House Joint Resolution No. 901 -- Memorials, Academic Achievement - Nortoria Taper, Salutatorian, Northside High School. by *Parkinson.

House Joint Resolution No. 902 -- Memorials, Recognition - Apostle William A. Adkins, Jr., and First Lady Linda Kerr Adkins. by *Parkinson.

House Joint Resolution No. 903 -- Memorials, Recognition - Rev. Robert Earl Jones, Sr., and First Lady Harriet Noel Jones. by *Parkinson.

House Joint Resolution No. 904 -- Memorials, Recognition - Bishop Edward Houston Stephens, Jr., and Elder Beverly Clark Stephens. by *Parkinson.

House Joint Resolution No. 905 -- Memorials, Recognition - Pastor Ricky Floyd and Co-Pastor Sheila Floyd. by *Parkinson.

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY UNOFFICIAL VERSION

House Joint Resolution No. 906 -- Memorials, Recognition - Pastor Elliot R. Shelton, Sr., and Jeaneen Shelton. by *Parkinson.

House Joint Resolution No. 907 -- Memorials, Recognition - Breath of Life Christian Center, 30th anniversary. by *Parkinson.

House Joint Resolution No. 908 -- Memorials, Academic Achievement - Charles Lee Gross, Jr., Valedictorian, Trezevant High School. by *Parkinson.

House Joint Resolution No. 909 -- Memorials, Academic Achievement - Elishuwa Keith Miller, Salutatorian, Trezevant High School. by *Parkinson.

House Joint Resolution No. 910 -- Memorials, Recognition - R. C. Bartlett. by *Gilmore.

House Joint Resolution No. 912 -- Memorials, Personal Achievement - Seth Andrew Morton, Eagle Scout. by *Swann.

House Joint Resolution No. 913 -- Memorials, Personal Occasion - Bill & Beth Miller, 50th wedding anniversary. by *Montgomery.

INTRODUCTION OF BILLS

On motion, the following bills were introduced and passed first consideration:

House Bill No. 3883 -- Oliver Springs - As introduced, subject to local approval, moves the date of the city election to coincide with the November general election; extends the four-year terms of office of the mayor and councilmen elected at the regular city election held in June 2009 and the councilmen elected at the regular city election held in June 2011 to expire on the first Thursday in November in 2013 and 2015 respectively. - Amends Chapter 247 of the Acts of 1905; as amended and rewritten. by *Hurley.

House Bill No. 3884 -- Shelby County - As introduced, subject to local approval by both the City of Memphis and Shelby County, changes the name of the Memphis and Shelby County Convention Center to the "Memphis Convention Center," changes the name of the commission to the "Memphis Convention Center Commission" and provides for the appointment of the commissioners solely by the Mayor of the City of Memphis. - Amends Chapter 420 of the Private Acts of 1917. by *Camper, *Coley.

SENATE BILLS TRANSMITTED

On motion, the Senate Bills listed below, transmitted to the House, were held on the Clerk's desk pending third consideration of the companion House Bill as noted:

Senate Bill No. 1631 -- Education, Dept. of - As introduced, requires department to utilize scale of 100% when reporting progress in the Tennessee report card for schools beginning with the report for the 2012-2013 school year. - Amends TCA Title 49. by *Marrero, *Harper. (*HB1944 by *Towns)

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY UNOFFICIAL VERSION

Senate Bill No. 1688 -- Schools, Charter - As introduced, requires public charter school's annual renewal application to include the number of students who attended the school in the most recently completed academic year and the schools that those students attended prior to enrolling at the charter school. - Amends TCA Title 49. by *Faulk, *McNally, *Overbey. (*HB1970 by *Swann, *Hardaway, *Towns, *Fitzhugh, *Montgomery, *Richardson, *Cooper B, *White)

Senate Bill No. 2484 -- Education - As introduced, makes the Move on When Ready Act inapplicable in Williamson County. - Amends TCA Title 49, Chapter 6, Part 83. by *Johnson. (*HB2235 by *Casada)

Senate Bill No. 2591 -- Education - As introduced, requires interest inventories to be administered to high school juniors and college sophomores to assist students in career decisions. - Amends TCA Title 49. by *Marrero, *Ford, *Harper, *Tate. (*HB2167 by *Coley)

***Senate Bill No. 2596** -- Insurance Companies, Agents, Brokers, Policies - As introduced, exempts certain insurers of commercial risk insurance from filing with the commissioner of commerce and insurance all rates, supplementary rate information, policy forms and endorsements; requires such insurers to place a written disclaimer of such exemption in the policy or application. - Amends TCA Title 56, Chapter 5. by *Ketron. (HB3112 by *Curtiss)

Senate Bill No. 2633 -- Licenses - As introduced, increases the minimum fees for unrestricted initial staff leasing company licenses and renewals thereof from \$100 for residents and \$150 for nonresidents to \$150 and \$200 respectively. - Amends TCA Title 56, Chapter 56 and Title 62, Chapter 43. by *Johnson. (*HB2747 by *Haynes)

Senate Bill No. 2693 -- Teachers, Principals and School Personnel - As introduced, prohibits abolition of a position as a means of avoiding dismissal charges against a teacher; specifies certain procedures for rejecting a teacher whose position has been abolished for reemployment. - Amends TCA Title 49, Chapter 5, Part 5. by *Haynes, *Barnes. (*HB2738 by *Pitts)

Senate Bill No. 2845 -- Alcoholic Beverages - As introduced, removes obsolete provisions; creates license for military personnel living abroad to ship wine to this state. - Amends TCA Section 57-1-111; Title 57, Chapter 3; Section 57-2-101; Section 57-4-101 and Section 57-4-203. by *Yager, *Ford. (*HB2987 by *Haynes)

***Senate Bill No. 2912** -- Corporations, For Profit - As introduced, extends the attorney general and reporter's deadline of objection for any proposed public benefit hospital conveyance transaction from 45 days to 60 days and provides an additional 45-day extension to review and consider the transaction. - Amends TCA Title 48, Chapter 68. by *Overbey. (HB3275 by *Harrison, *Sargent)

***Senate Bill No. 2967** -- Local Education Agencies - As introduced, requires local board of education to approve budget for operation of county schools after the county legislative body's approval in accordance with Local Option Budgeting Law of 1993. - Amends TCA Section 49-2-101. by *Tracy. (HB3238 by *Brooks H)

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY UNOFFICIAL VERSION

Senate Bill No. 3174 -- Economic and Community Development - As introduced, requires the commissioner of economic and community development and the commissioner of revenue to study and report to the general assembly the effect of tax incentives on economic development in cities and counties; report to cover past five years; report due September 15, 2012. - Amends TCA Title 67. by *Bell, *Berke, *Stewart. (*HB3322 by *Watson, *Brooks K)

Senate Bill No. 3331 -- Comptroller, State - As introduced, requires state agency officials with knowledge of a theft, forgery, fraud or similar unlawful act or abuse of public money or services to report such information to the comptroller. - Amends TCA Title 8, Chapter 4, Part 1. by *Ketron, *Berke. (*HB3522 by *Gotto)

Senate Bill No. 3503 -- Education, Higher - As introduced, removes public institutions of higher education from requirements of blind vending facilities. - Amends TCA Section 49-8-118 and Section 71-4-502. by *Tate, *Ketron. (*HB3584 by *Carr)

Senate Bill No. 3594 -- State Employees - As introduced, provides that the disciplinary counsel for the court of the judiciary is a state employee for purposes of defense by the attorney general when a civil action is commenced for an act or omission performed during the course of duties for the court of judiciary. - Amends TCA Section 8-42-103. by *Faulk. (*HB3120 by *Dennis)

Senate Bill No. 3596 -- Taxes, Real Property - As introduced, allows notice by delivery service alternatives to certified or registered mail, return receipt requested as authorized by federal law in regard to notice to a taxpayer of a tax lien suit. - Amends TCA Title 67, Chapter 5. by *Watson, *Finney L. (*HB3527 by *Haynes)

Senate Bill No. 3629 -- Sentencing - As introduced, requires that a person convicted of committing a dangerous felony involving a firearm who is subsequently convicted of the same serve a minimum of 15 years imprisonment at 100 percent. - Amends TCA Title 39, Chapter 17 and Title 40. by *Watson, *Norris. (*HB2904 by *Dean)

***Senate Bill No. 3652** -- Judges and Chancellors - As introduced, requires speakers to appoint all nine members of the judicial evaluation commission since the judicial council no longer exists. - Amends TCA Title 17, Chapter 4, Part 2. by *Bell, *Ramsey, *Ketron. (HB3691 by *Dennis)

***Senate Bill No. 3742** -- Traffic Safety - As introduced, requires members of the highway patrol investigating motor vehicle accidents on interstates to note on the accident report whether a physical barrier would have prevented the accident or would have prevented deaths or serious bodily injury. - Amends TCA Title 55, Chapter 10. by *Herron. (HB3749 by *Turner M)

***Senate Bill No. 3751** -- Education, Higher - As introduced, requires public institutions of higher education to report annually to the education committees of the senate and the house on the filling of positions at the institutions. - Amends TCA Title 49, Chapter 7, Part 1. by *Tracy. (HB3705 by *McCormick)

REPORTS FROM STANDING COMMITTEES

The committees that met on **April 10, 2012**, reported the following:

COMMITTEE ON CALENDAR AND RULES

The Calendar and Rules Committee met and set the following bill(s) on the **Regular Calendar** for **April 12, 2012**: House Bill(s) No(s). 2766, 3760, 3146, 3280, 3062, 3420, 3765, 2895, 2977, 3758, 2724 and 2508.

The Committee also set the following bill(s) and/or resolution(s) on the **Consent Calendar** for **April 16, 2012**: House Joint Resolution(s) No(s). 766, House Bill(s) No(s). 2575, House Resolution(s) No(s). 190, 191, 192, 193 and 194.

COMMERCE COMMITTEE

The Commerce Committee recommended for passage: House Bill(s) No(s). 3659, 2454, 3112, 1570 and 2629 with amendments. Under the rules, each was transmitted to the Calendar and Rules Committee.

CONSUMER AND EMPLOYEE AFFAIRS COMMITTEE

The Consumer and Employee Affairs Committee recommended for passage: House Bill(s) No(s). 2808. Under the rules, each was transmitted to the Calendar and Rules Committee.

It further recommended that the following be referred to the Finance, Ways and Means Committee: House Bill(s) No(s). 3461 and 3430 with amendments. Pursuant to **Rule No. 72**, each was referred to the Finance, Ways and Means Committee.

EDUCATION COMMITTEE

The Education Committee recommended that the following be referred to the Finance, Ways and Means Committee: House Bill(s) No(s). 3584, 2235 and 3234 with amendments. Pursuant to **Rule No. 72**, each was referred to the Finance, Ways and Means Committee.

FINANCE, WAYS AND MEANS COMMITTEE

The Finance, Ways and Means Committee recommended for passage: House Bill(s) No(s). 2389, 2962, 3276, 3601, 3602, 3603, 2286, 2633, 2691, 2567, 2994, 2408, 2425, 3270, 2917, 3218, 3322, 3394, 3429, 3431, 3456, 3517, 3504, 2675, 2776, 3030 and 2193, also House Bill(s) No(s). 2372, 1075, 3610, 153, 2566, 2198, 2751, 3175, 2938 and 3690 with amendments. Under the rules, each was transmitted to the Calendar and Rules Committee.

GOVERNMENT OPERATIONS COMMITTEE

The Government Operations Committee recommended for passage: House Bill(s) No(s). 2379 and 2537, also House Bill(s) No(s). 3208, 1788 and 651 with amendments. Under the rules, each was transmitted to the Calendar and Rules Committee.

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY UNOFFICIAL VERSION

It further recommended that the following be referred to the Finance, Ways and Means Committee: House Bill(s) No(s). 442, 2385 and 2391. Pursuant to **Rule No. 72**, each was referred to the Finance, Ways and Means Committee.

STATE AND LOCAL GOVERNMENT COMMITTEE

The State and Local Government Committee recommended for passage: House Bill(s) No(s). 3595, 3872, 3869, 3873, 3875, 3671, 2601, 3867, 3697, 2837, 3878, House Resolution(s) No(s). 232, House Joint Resolution(s) No(s). 750, 807, Senate Joint Resolution(s) No(s). 568, 533, 567 and 526, also House Bill(s) No(s). 3471, 3855, 3851, 3712, 2402 and House Joint Resolution(s) No(s). 840 with amendments. Under the rules, each was transmitted to the Calendar and Rules Committee.

It further recommended that the following be referred to the Finance, Ways and Means Committee: House Bill(s) No(s). 3874, 2987, 3527, 2637 and House Joint Resolution(s) No(s). 751, also House Bill(s) No(s). 3397, 2402, 101, 3119, 2911, 3526 and 3326 with amendments. Pursuant to **Rule No. 72**, each was referred to the Finance, Ways and Means Committee.

The Committee also transmitted the following bill(s) to the Government Operations Committee for review: House Bill(s) No(s). 3778, also House Bill(s) No(s). 1916 with amendments.

REPORTS FROM STANDING COMMITTEES

The committees that met on **April 11, 2012**, reported the following:

EDUCATION

The Education Committee recommended for passage: House Bill(s) No(s). 1507, 2641 and 3576 with amendments. Under the rules, each was transmitted to the Calendar and Rules Committee.

It further recommended that the following be referred to the Finance, Ways and Means Committee: House Bill(s) No(s). 2613 and 3769 with amendments. Pursuant to **Rule No. 72**, each was referred to the Finance, Ways and Means Committee.

The Committee also transmitted the following bill(s) to the Government Operations Committee for review: House Bill(s) No(s). 2392 with amendments.

HEALTH AND HUMAN RESOURCES COMMITTEE

The Health and Human Resources Committee transmitted the following to the Government Operations Committee for review: House Bill(s) No(s). 1896 and 2725 with amendments.

JUDICIARY COMMITTEE

The Judiciary Committee recommended for passage: House Bill(s) No(s). 2825, 3225 and 3691, also House Bill(s) No(s). 3069, 3070, 2990, 3579, 3262, 2492, 827, 2979, 2982, 2983, 2333, 3124, 3125 and 3700 with amendments. Under the rules, each was transmitted to the Calendar and Rules Committee.

It further recommended that the following be referred to the Finance, Ways and Means Committee: House Bill(s) No(s). 3673 and House Joint Resolution(s) No(s). 804, also House Bill(s) No(s). 1576, 2865, 3826, 2334, 3287 and 3728. Pursuant to **Rule No. 72**, each was referred to the Finance, Ways and Means Committee.

The Committee further reports that House Bill(s) No(s). 173 was considered, but failed to pass.

STATE AND LOCAL GOVERNEMENT COMMITTEE

The State and Local Government Committee recommended for passage: House Bill(s) No(s). 3195 and 3870, also House Bill(s) No(s). 3522 with amendments. Under the rules, each was transmitted to the Calendar and Rules Committee.

It further recommended that the following be referred to the Finance, Ways and Means Committee: House Bill(s) No(s). 2742 and 3141 with amendments. Pursuant to **Rule No. 72**, each was referred to the Finance, Ways and Means Committee.

CONSENT CALENDAR

House Resolution No. 237 -- Memorials, Recognition - City of Kingston, Tree City USA. by *Hurley.

House Resolution No. 240 -- Memorials, Sports - Belmont University men's basketball team, 2012 Atlantic Sun Conference Champions. by *Gilmore, *Moore, *Odom, *Sontany, *Jones S, *Gotto, *Stewart, *Turner M.

House Joint Resolution No. 869 -- Memorials, Personal Occasion - George Leonard Ware, 99th birthday. by *Swann, *Ramsey.

House Joint Resolution No. 871 -- Memorials, Recognition - James R. Barth. by *Cobb .

Senate Joint Resolution No. 723 -- Memorials, Recognition - Taylor Lindsay, 2011 Miss Polk Salad. by *Yager, *Crowe, *Ford.

Senate Joint Resolution No. 727 -- Memorials, Academic Achievement - Dakota Scott Rakestraw, Valedictorian, Stewart County High School. by *Barnes, *Herron.

Senate Joint Resolution No. 728 -- Memorials, Academic Achievement - Clarissa Hsin en Wu, Salutatorian, Stewart County High School. by *Barnes, *Herron.

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY UNOFFICIAL VERSION

Senate Joint Resolution No. 729 -- Memorials, Professional Achievement - Dr. Harry McSween, J. Lawrence Smith Medal. by *Massey, *Campfield, *McNally, *Overbey.

Senate Joint Resolution No. 730 -- Memorials, Recognition - Mary Ann Duncan, 2012 Super Senior. by *Yager.

Senate Joint Resolution No. 732 -- Memorials, Death - Tutt S. Bradford. by *Overbey.

Rep. Ramsey moved that all members voting aye on Senate Joint Resolution No. 732 be added as co-prime sponsors, which motion prevailed with the following members not added pursuant to the signed Sponsor Exclusion form: Rep(s). Alexander, Butt, Holt, Hurley, Pody and Ragan.

Pursuant to **Rule No. 50**, Rep. Dunn moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Consent Calendar be concurred in, which motion prevailed by the following vote:

Ayes 97
Noes..... 0

Representatives voting aye were: Alexander, Armstrong, Brooks H, Brooks K, Butt, Campbell, Camper, Carr, Casada, Cobb, Coley, Cooper, Curtiss, Dean, DeBerry J, DeBerry L, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Favors, Fitzhugh, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Hardaway, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones, Keisling, Kernell, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McDonald, McManus, Miller D, Miller L, Montgomery, Moore, Naifeh, Niceley, Odom, Parkinson, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sargent, Sexton, Shaw, Shepard, Shipley, Sontany, Sparks, Stewart, Swann, Tidwell, Tindell, Todd, Towns, Turner J, Turner M, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 97

A motion to reconsider was tabled.

REGULAR CALENDAR

House Bill No. 2823 -- Criminal Offenses - As introduced, grants immunity from prosecution of prostitution where a person is a victim of involuntary labor servitude, sexual servitude, or where the person is a victim as defined under the federal Trafficking Victims Protection Act. - Amends TCA Title 39 and Title 40. by *Coley, *McCormick, *Floyd, *Sparks, *Brown, *Todd, *Swann, *Maggart, *Jones S, *Gilmore, *Sontany. (*SB2590 by *Marrero)

Rep. Coley moved that House Bill No. 2823 be passed on third and final consideration.

Rep. Watson moved adoption of Judiciary Committee Amendment No. 1 as follows:

Amendment No. 1

AMEND House Bill No. 2823 by deleting the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-13-513, is amended by adding the following as a new subsection thereto:

(e) It is a defense to prosecution under this section that a person charged with a violation of this section was so charged for conduct that occurred because the person was a victim of an act committed in violation of § 39-13-307 or § 39-13-309, or because the person was a victim as defined under the Trafficking Victims Protection Act, 22 U.S.C. § 7102.

SECTION 2. This act shall take effect July 1, 2012, the public welfare requiring it.

On motion, Judiciary Committee Amendment No. 1 was adopted.

Rep. Coley moved that **House Bill No. 2823**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 95
Noes 0

Representatives voting aye were: Alexander, Armstrong, Brooks H, Brown, Butt, Campbell, Camper, Carr, Casada, Cobb, Coley, Cooper, Curtiss, Dean, DeBerry J, DeBerry L, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Favors, Fitzhugh, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Hardaway, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones, Keisling, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McDonald, McManus, Miller D, Miller L, Montgomery, Moore, Naifeh, Niceley, Odom, Parkinson, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sexton, Shaw, Shepard, Shipley, Sontany, Sparks, Stewart, Swann, Tidwell, Tindell, Todd, Towns, Turner J, Turner M, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 95

A motion to reconsider was tabled.

REQUEST TO CHANGE VOTE

Pursuant to **Rule No. 31**, the following member(s) desire to change their original stand from “not voting” to “aye” on **House Bill No. 2823** and have this statement entered in the Journal: Rep(s). Kernell.

REGULAR CALENDAR, CONTINUED

***House Bill No. 1572** -- Fire Prevention and Investigation - As introduced, requires persons setting fires to woods or other property to give a minimum of three, instead of two, days' notice to adjacent landowners. - Amends TCA Title 11, Chapter 4, Part 8 and Title 68. by *Swann, *Tidwell. (SB1759 by *Ketron)

Rep. Swann moved that House Bill No. 1572 be passed on third and final consideration.

Rep. Lollar moved adoption of Conservation and Environment Committee Amendment No. 1 as follows:

Amendment No. 1

AMEND House Bill No. 1572 by adding the following language immediately preceding the enacting clause:

WHEREAS, the application of prescribed burning is a landowner property right and a land management tool that benefits the safety of the public, the environment and the economy of Tennessee; and

WHEREAS, prescribed burning reduces naturally occurring vegetative fuels within wild land areas. Reduction of the fuel load reduces the risk and severity of major catastrophic wildfire, thereby reducing the threat of loss of life and property, particularly in rural areas that are becoming more urban; and

WHEREAS, much of Tennessee's natural communities benefit from periodic fire for maintenance of ecological integrity and diversity. Prescribed burning is essential to the perpetuation, restoration and management of many plant and animal communities. Significant loss of the state's biological diversity will occur if fire is excluded from fire-dependent plant communities; and

WHEREAS, forest lands constitute significant economic, biological and aesthetic resources of statewide importance. Prescribed burning on forest land prepares sites for reforestation, removes undesirable competing vegetation, expedites nutrient cycling, controls or eliminates certain forest pathogens and improves habitat for many wildlife species; and

WHEREAS, the state manages hundreds of thousands of acres of land for parks, wildlife management areas, forests and other public purposes. The use of prescribed burning for management of public lands is essential to maintain the specific resource values for which these lands were acquired; and

WHEREAS, certain lands benefit from the use of prescribed fire. Management of native warm season grasses for pastures, hay crops, and biofuels is dependent upon prescribed fire for effective and productive yields; and

WHEREAS, proper training in the use of prescribed burning is necessary to ensure maximum benefits and protection for the public; and

WHEREAS, as Tennessee's population continues to grow, pressures from liability issues and nuisance complaints inhibit the use of prescribed burning; and

WHEREAS, it is the purpose of this act to authorize and promote the continued use of prescribed burning for ecological, silvicultural and wildlife management purposes; now, therefore,

AND FURTHER AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Sections 1 through 3 shall be known and may be cited as the "Tennessee Prescribed Burning Act."

SECTION 2. As used in this section unless the context requires otherwise:

(1) "Certified prescribed burn manager" means a person who successfully completes the prescribed burner certification program approved by the division of forestry;

(2) "Prescribed burning" means the controlled application of fire to naturally occurring vegetative fuels for ecological, silvicultural and wildlife management purposes under specified environmental conditions and the following of appropriate precautionary measures which cause the fire to be confined to a predetermined area and accomplishes the planned land management objectives; and

(3) "Prescription" means a written plan for starting and controlling a prescribed burn to accomplish ecological, silvicultural and wildlife management objectives.

SECTION 3.

(a) No property owner, person, corporation, limited liability company, partnership, natural person, agent of the owner, or any other entity who conducts a prescribed burn pursuant to the requirements of this act shall be liable for damage or injury caused by fire or resulting smoke unless gross negligence is proven.

(b) Prescribed burning conducted in accordance with this section shall:

(1) Require that a written prescription be prepared, signed, and followed by the certified prescribed burn manager;

(2) Require that the certified prescribed burn manager maintain the prescription in the manager's records, and possess the prescription on site during all prescribed burnings;

(3) Occur only when at least one (1) certified prescribed burn manager is on site and supervising burns while they are being conducted;

(4) Require that the certified prescribed burn manager supervising the burns being conducted is the person who directly observes and coordinates the lighting of the fire to initiate the burn process;

(5) Require a burning permit be obtained from the division of forestry as required in § 39-14-306; and

(6) Be considered in the public interest and shall not constitute a public or private nuisance when conducted pursuant to state air pollution control statutes and rules applicable to prescribed burning.

(c) Certified prescribed burn managers shall take into account the variability of environmental conditions on site when preparing prescriptions, and shall include in each prescription a plan of action to address emergencies that could occur during prescribed burnings.

(d) The division of forestry is authorized to promulgate rules and regulations to effectuate the purposes of this act including, but not limited to, the certification of prescribed burn managers and guidelines for a prescribed burn prescription. All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Conservation and Environment Committee Amendment No. 1 was adopted.

Rep. Swann moved that **House Bill No. 1572**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 96
Noes 1

Representatives voting aye were: Alexander, Armstrong, Brooks H, Brooks K, Brown, Butt, Campbell, Camper, Carr, Casada, Cobb, Coley, Cooper, Curtiss, Dean, DeBerry J, DeBerry L, Dennis, Dunn, Eldridge, Evans, Faison, Favors, Fitzhugh, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Hardaway, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones, Keisling, Kernell, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McDonald, McManus, Miller D, Miller L, Montgomery, Moore, Naifeh, Niceley, Odom, Parkinson, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sargent, Sexton, Shaw, Shepard, Shipley, Sontany, Sparks, Swann, Tidwell, Tindell, Todd, Towns, Turner J, Turner M, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell – 96

Representatives voting no were: Elam -- 1

A motion to reconsider was tabled.

REQUEST TO CHANGE VOTE

Pursuant to **Rule No. 31**, the following member(s) desire to change their original stand from “not voting” to “aye” on **House Bill No. 1572** and have this statement entered in the Journal: Rep(s). Stewart.

REGULAR CALENDAR, CONTINUED

***House Bill No. 1970** -- Schools, Charter - As introduced, requires public charter school's annual renewal application to include the number of students who attended the school in the most recently completed academic year and the schools that those students attended prior to enrolling at the charter school. - Amends TCA Title 49. by *Swann. (SB1688 by *Faulk, *McNally, *Overbey)

On motion, House Bill No. 1970 was made to conform with **Senate Bill No. 1688**; the Senate Bill was substituted for the House Bill.

Rep. Swann moved that Senate Bill No. 1688 be passed on third and final consideration.

Rep. Montgomery moved that Education Committee Amendment No. 1 be withdrawn, which motion prevailed.

Rep. Montgomery moved that Education Committee Amendment No. 2 be withdrawn, which motion prevailed.

Rep. Swann requested that Senate Bill No. 1688 be moved down 3 places on the Calendar.

***House Bill No. 3396** -- Industrial Development - As introduced, includes land, improvements, and machinery used or suitable for use in the production, treatment, processing, or transportation of biofuels and other similar products in the definition of "project" under the provisions governing projects by industrial development corporations. - Amends TCA Title 7, Chapter 53. by *Swann. (SB3233 by *Overbey)

Rep. Swann moved that House Bill No. 3396 be reset for the Regular Calendar on April 18, 2012, which motion prevailed.

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

***House Resolution No. 195** -- General Assembly, Statement of Intent or Position - Supports the construction of the Keystone XL oil pipeline from Canada to Gulf Coast and encourages President Obama to approve TransCanada's permit application for such project. by *Powers, *Faison, *Holt, *Ragan, *Alexander, *Maggart, *Swann, *Dennis, *Brooks K, *Marsh, *White, *Haynes, *Gotto, *Matlock, *Williams R, *Harrison, *Montgomery, *Wirgau, *Halford, *Butt, *Eldridge, *Brooks H, *Weaver, *Hurley, *Niceley, *Johnson C, *Elam, *McCormick, *Sargent, *Harwell, *Casada, *Carr, *Lundberg, *McDaniel, *Shipley, *Ford, *Bass, *Hall, *Cobb, *Keisling, *Williams K, *Dunn, *Roach, *Rich, *Campbell, *Sexton, *Evans, *Forgety, *Sparks, *Pody, *Floyd, *McManus, *Todd, *Matheny, *Lollar, *Sanderson, *Miller D, *Ramsey, *Coley, *Womick.

Rep. Powers moved adoption of House Resolution No. 195.

Rep. Fitzhugh moved adoption of Amendment No. 1 as follows:

Amendment No. 1

AMEND House Resolution No. 195 By inserting immediately after the second WHEREAS clause the following language:

WHEREAS, the State of Nebraska sought delay of the project due to serious concerns as to the proposed location of the pipeline and its impact on their important and vast underground water source, the Ogallala aquifer; and

WHEREAS, Nebraska Governor Dave Heineman (R) called the Nebraska legislature into special session this past November for that purpose that resulted in the passage of legislation that would pay for a new Nebraska-run environmental study, which will not be completed until this August, on a new route that TransCanada agreed to pursue; and

AND FURTHER AMEND by deleting the final resolving clause and inserting the following language:

BE IT FURTHER RESOLVED that we herby urge Governor Dave Heineman and the State of Nebraska to expedite their environmental study and work with President Obama and the federal government in finding a location through the state of Nebraska where the pipeline can be built that does not interfere with the water supply.

BE IT FURTHER RESOLVED, that certified copies of this resolution be transmitted to the Honorable Barack Obama, President of the United States of America and the Honorable Dave Heineman, Governor of the State of Nebraska.

Rep. McCormick moved that House Amendment No. 1 be tabled, which motion prevailed by the following vote:

Ayes	64
Noes.....	34

Representatives voting aye were: Alexander, Brooks H, Brooks K, Butt, Campbell, Carr, Casada, Cobb, Coley, Dean, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Floyd, Ford, Forgety, Gotto, Halford, Hall, Harrison, Hawk, Hensley, Hill, Holt, Hurley, Johnson C, Johnson

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

P, Keisling, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McManus, Miller D, Montgomery, Niceley, Pody, Powers, Ragan, Ramsey, Rich, Roach, Sanderson, Sargent, Sexton, Shipley, Sparks, Swann, Todd, Watson, Weaver, White, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 64

Representatives voting no were: Armstrong, Brown, Camper, Cooper, Curtiss, DeBerry J, DeBerry L, Favors, Fitzhugh, Gilmore, Hardaway, Harmon, Haynes, Jones, Kernell, McDonald, Miller L, Moore, Naifeh, Odom, Parkinson, Pitts, Pruitt, Richardson, Shaw, Shepard, Sontany, Stewart, Tidwell, Tindell, Towns, Turner J, Turner M, Williams K -- 34

Rep. Hurley moved the previous question, which motion prevailed by the following vote:

Ayes 66
Noes..... 30

Representatives voting aye were: Alexander, Brooks H, Brooks K, Butt, Campbell, Carr, Casada, Cobb, Coley, Dean, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Floyd, Ford, Forgety, Gotto, Halford, Hall, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Keisling, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McManus, Miller D, Montgomery, Niceley, Pody, Powers, Ragan, Ramsey, Rich, Roach, Sanderson, Sargent, Sexton, Shipley, Sparks, Swann, Todd, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 66

Representatives voting no were: Armstrong, Camper, Cooper, Curtiss, DeBerry J, DeBerry L, Favors, Fitzhugh, Gilmore, Hardaway, Harmon, Jones, Kernell, McDonald, Miller L, Moore, Naifeh, Odom, Parkinson, Pitts, Richardson, Shaw, Shepard, Sontany, Stewart, Tidwell, Tindell, Towns, Turner J, Turner M -- 30

Rep. Powers moved adoption of **House Resolution No. 195**, which motion prevailed by the following vote:

Ayes 72
Noes..... 21
Present and not voting..... 2

Representatives voting aye were: Alexander, Brooks H, Brooks K, Butt, Campbell, Carr, Casada, Cobb, Coley, Curtiss, Dean, DeBerry J, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Floyd, Ford, Forgety, Gotto, Halford, Hall, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Keisling, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McManus, Miller D, Montgomery, Moore, Niceley, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Roach, Sanderson, Sargent, Sexton, Shipley, Sparks, Swann, Todd, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 72

Representatives voting no were: Armstrong, Brown, Camper, DeBerry L, Favors, Gilmore, Hardaway, Jones, Kernell, McDonald, Miller L, Naifeh, Odom, Parkinson, Richardson, Shaw, Sontany, Stewart, Tindell, Towns, Turner J -- 21

Representatives present and not voting were: Shepard, Tidwell -- 2

A motion to reconsider was tabled.

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

Senate Bill No. 1688 -- Schools, Charter - As introduced, requires public charter school's annual renewal application to include the number of students who attended the school in the most recently completed academic year and the schools that those students attended prior to enrolling at the charter school. - Amends TCA Title 49. by *Faulk, *McNally, *Overbey. (*HB1970 by *Swann)

Further consideration of Senate Bill No. 1688 previously considered on today's Calendar, at which time the House substituted the Senate Bill for the House Bill and withdrew Amendment(s) No(s). 1 and 2.

Rep. Swann requested that Senate Bill No. 1688 be moved to the heel of the Calendar.

***House Bill No. 3552** -- Boards and Commissions - As introduced, makes permissive instead of mandatory the provisions for the Home Builders Association of Tennessee, Inc., submitting list of recommended persons to the governor and the governor consulting with the association about its recommendations prior to the governor making appointment to the state board for licensing contractors; authorizes other interested home builder groups to submit lists of qualified persons. - Amends TCA Title 4, Chapter 29 and Section 62-6-104. by *Cobb, *Rich. (SB3382 by *Bell)

On motion, House Bill No. 3552 was made to conform with **Senate Bill No. 3382**; the Senate Bill was substituted for the House Bill.

Rep. Cobb moved that Senate Bill No. 3382 be passed on third and final consideration.

Rep. Rich moved adoption of Government Operations Committee Amendment No. 1 as follows:

Amendment No. 1

AMEND Senate Bill No. 3382 by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 62-6-104(a), is amended by deleting the second sentence in subdivision (1) which reads as follows:

The board shall be composed of nine (9) members, all of whom shall be residents of this state and at least three (3) of whom shall be actively engaged as residential contractors and shall compose the residential review board to consider and handle all informal conferences pertaining to residential construction, at least two (2) of whom shall be actively engaged as commercial building contractors, at least one (1) of whom shall be actively engaged as a mechanical contractor, at least one (1) of whom shall be actively engaged as an electrical contractor, at least one (1) of whom shall be actively engaged as a highway, railroad or airport contractor, and at least one (1) of whom shall be a person who is not engaged as a contractor in any county of this state and has no commercial or professional association with the residential contracting profession or industry, either directly or indirectly.

and by substituting instead the following:

The board shall be composed of nine (9) members, all of whom shall be residents of this state and at least three (3) of whom shall be actively engaged licensed residential contractors, at least two (2) of whom shall be actively engaged as commercial building contractors, at least one (1) of whom shall be actively engaged as a mechanical contractor, at least one (1) of whom shall be actively engaged as an electrical contractor, at least one (1) of whom shall be actively engaged as a highway, railroad or airport contractor, and at least one (1) of whom shall be a person not engaged as a contractor in any county of this state and has no commercial or professional association with the construction profession or industry, either directly or indirectly.

All contractor appointments must have pulled at least five construction permits within the three (3) years prior to appointment. The residential contractors shall compose the residential review board and handle all informal conferences pertaining to residential construction. The other contractors will serve as the commercial review board and handle all informal conferences pertaining to commercial construction.

SECTION 2. Tennessee Code Annotated, Section 62-6-104, is amended by deleting subdivision (a)(2) and by substituting instead the following:

(a)(2) For each member appointed to the board that is a residential contractor, interested home builder groups including, but not limited to, the Home Builders Association of Tennessee, Inc. may submit lists of qualified persons to the governor; and the governor shall consult with each interested groups to determine qualified persons to fill the positions. For each contractor member appointed to the board that is a non-residential contractor, interested groups including, but not limited to, the Associated Builders and Contractors, Inc., the Associated General Contractors, Inc and the Tennessee Road Builders Association may submit lists of qualified persons to the governor, and the governor shall consult with these groups to determine qualified persons to fill these positions. Appointments made pursuant to this subdivision (a)(2) shall be made by the governor at the occurrence of a vacancy or the expiration of the respective terms of the members presently serving on the board.

SECTION 3. Tennessee Code Annotated, Section 62-6-104(a), is further amended by adding the following language as a new, appropriately designated subdivision:

() The members of the board who are contractors and appointed to the review boards shall have no record of any formal disciplinary action. Such members shall each have demonstrated an interest in improving the profession by membership in a statewide trade association directly related to their profession for at least five (5) years. Each member shall be a citizen of the United States, shall have been a resident of Tennessee for five (5) years, and shall have ten (10) years experience

as a licensed contractor immediately preceding the member's appointment.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Government Operations Committee Amendment No. 1 was adopted.

Rep. Cobb moved that **Senate Bill No. 3382**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 70
Noes..... 26

Representatives voting aye were: Alexander, Brooks H, Brooks K, Butt, Campbell, Carr, Casada, Cobb, Coley, Curtiss, Dean, DeBerry J, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Floyd, Ford, Forgety, Gotto, Halford, Hall, Harrison, Hawk, Haynes, Hensley, Holt, Hurley, Johnson C, Johnson P, Keisling, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McManus, Miller D, Montgomery, Niceley, Pitts, Powers, Pruitt, Ragan, Ramsey, Rich, Roach, Sanderson, Sargent, Sexton, Shepard, Shipley, Sparks, Stewart, Swann, Tindell, Todd, Watson, Weaver, White, Williams K, Williams R, Wirgau, Womick, Madam Speaker Harwell -- 70

Representatives voting no were: Armstrong, Brown, Camper, Cooper, DeBerry L, Favors, Fitzhugh, Hardaway, Harmon, Hill, Jones, Kernell, McDonald, Miller L, Moore, Naifeh, Odom, Parkinson, Richardson, Shaw, Sontany, Tidwell, Towns, Turner J, Turner M, Windle -- 26

A motion to reconsider was tabled.

REQUEST TO CHANGE VOTE

Pursuant to **Rule No. 31**, the following member(s) desire to change their original stand from "no" to "aye" on **Senate Bill No. 3382** and have this statement entered in the Journal: Rep(s). Kernell.

Pursuant to **Rule No. 31**, the following member(s) desire to change their original stand from "not voting" to "aye" on **Senate Bill No. 3382** and have this statement entered in the Journal: Rep(s). Pody.

Pursuant to **Rule No. 31**, the following member(s) desire to change their original stand from "aye" to "no" on **Senate Bill No. 3382** and have this statement entered in the Journal: Rep(s). Stewart.

REGULAR CALENDAR, CONTINUED

House Bill No. 2890 -- Drug and Alcohol Rehabilitation - As introduced, provides that a person is eligible for drug court if the person has been charged with but not convicted of a violent felony or does not have a pattern of convictions for violent misdemeanors. - Amends TCA Title 16, Chapter 22, Part 1. by *Watson, *Matheny. (*SB2697 by *Bell)

Rep. Watson moved that House Bill No. 2890 be passed on third and final consideration.

Rep. Coley moved adoption of Judiciary Committee Amendment No. 1 as follows:

Amendment No. 1

AMEND House Bill No. 2890 by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 16-22-103, is amended by deleting subdivision (4) in its entirety and substituting instead the following:

(4) "Violent offender" means a person who:

(A) Is convicted of an offense, during the course of which :

(i) The person carried, possessed or used a firearm or dangerous weapon;

(ii) There occurred the death of or serious bodily injury to any person; or

(iii) There occurred the use of force against the person of another; or

(B) Has one (1) or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

(C) In determining whether a defendant is a "violent offender" under subdivision (A), it does not matter whether one (1) or more of the circumstances described in subdivision (4)(A)(i), (4)(A)(ii), or (4)(A)(iii) is or is not an element of the offense for which the person is convicted.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Judiciary Committee Amendment No. 1 was adopted.

Rep. Todd moved the previous question, which motion prevailed.

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

Rep. Watson moved that **House Bill No. 2890**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 97
Noes..... 0

Representatives voting aye were: Alexander, Armstrong, Brooks H, Brooks K, Brown, Butt, Campbell, Camper, Carr, Casada, Cobb, Coley, Cooper, Curtiss, Dean, DeBerry J, DeBerry L, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Favors, Fitzhugh, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Hardaway, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones, Keisling, Kernell, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McDonald, McManus, Miller D, Miller L, Montgomery, Moore, Naifeh, Niceley, Odom, Parkinson, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sargent, Sexton, Shaw, Shepard, Shipley, Sontany, Stewart, Swann, Tidwell, Tindell, Todd, Towns, Turner J, Turner M, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 97

A motion to reconsider was tabled.

***House Bill No. 3627** -- Regional Authorities and Special Districts - As introduced, clarifies definition of "authority" in provisions governing regional transportation authorities to include reconstituted authority of Middle Tennessee; removes reference to power of regional transportation authorities to condemn property pursuant to the provisions governing such authorities in furtherance of mass transit and transportation plans. - Amends TCA Title 29, Chapter 20 and Title 64, Chapter 8. by *Johnson P. (SB3616 by *Tracy)

On motion, House Bill No. 3627 was made to conform with **Senate Bill No. 3616**; the Senate Bill was substituted for the House Bill.

Rep. P. Johnson moved that Senate Bill No. 3616 be passed on third and final consideration.

Rep. Dean moved that Transportation Committee Amendment No. 1 be withdrawn, which motion prevailed.

Rep. P. Johnson moved that **Senate Bill No. 3616** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 93
Noes..... 1

Representatives voting aye were: Alexander, Armstrong, Brooks H, Brooks K, Brown, Butt, Campbell, Camper, Carr, Casada, Cobb, Coley, Cooper, Curtiss, Dean, DeBerry J, DeBerry L, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Favors, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones, Keisling, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McDonald, McManus, Miller D, Miller L, Montgomery, Moore, Naifeh, Niceley, Odom, Parkinson, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sargent, Sexton, Shaw, Shepard, Shipley, Sontany, Sparks, Stewart,

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

Swann, Tindell, Todd, Towns, Turner J, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 93

Representatives voting no were: Hardaway -- 1

A motion to reconsider was tabled.

***House Bill No. 2384** -- Civil Service - As introduced, enacts the Tennessee Excellence, Accountability, and Management (T.E.A.M.) Act of 2012. - Amends TCA Title 8. by *McCormick, *Dunn, *Eldridge. (SB2246 by *Norris, *Johnson)

Rep. Dunn moved that House Bill No. 2384 be passed on third and final consideration.

Rep. Ramsey requested that State and Local Government Committee Amendment No. 1 be moved down 2 places.

Rep. Ramsey requested that State and Local Government Committee Amendment No. 2 be moved down 2 places.

Rep. Ramsey moved adoption of Amendment No. 3 as follows:

Amendment No. 3

AMEND House Bill No. 2384 by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. This act shall be known and cited as the "Tennessee Excellence, Accountability, and Management ("T.E.A.M.") Act of 2012."

SECTION 2. Tennessee Code Annotated, Section 8-30-101, is amended by deleting the section in its entirety and by substituting instead the following:

(a) The purpose of this act is to establish in the state a system of personnel administration that will attract, select, retain and promote the best employees based on merit and equal opportunity, and free from coercive political influences. Because the citizens of the state deserve services from the best employees, the goal of the state personnel system is to provide technically competent employees to render impartial services to the public at all times and to render such services in an ethical and honorable manner. Specifically, the intent of the general assembly is to further this purpose by allowing agencies greater flexibility in personnel management in order to enhance the overall effectiveness and efficiency of state government. The general assembly further intends that state government operate within a framework of consistent best practices across all state agencies and entities and that the state's most valued resource, its employees, be managed in a manner designed to enhance work force productivity and demonstrate sound business practices.

(b) It is the policy of the state that agencies treat all employees in accordance with the following principles:

(1) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to race, color, national origin, gender, age, disability, religion or creed, or political opinions or affiliations. This "fair treatment" principle includes compliance with all applicable state and federal equal employment opportunity and nondiscrimination laws;

(2) Recruiting, selecting, and promoting employees on the basis of their relative skills, abilities, competencies and knowledge, including an open process to consider qualified applicants for initial employment;

(3) Providing equitable and adequate compensation based on merit, performance, job value, and competitiveness within applicable labor markets;

(4) Training and developing employees, as needed, to assure a high level of performance and to provide work force knowledge and skills needed to maintain and advance the state's goals and objectives;

(5) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance when possible and appropriate, and separating employees whose performance and personal conduct is inadequate, unsuitable or inferior; and

(6) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with, or affecting the result of, an election or nomination for office.

(c) This chapter shall be liberally construed in order to increase governmental efficiency and responsiveness and to secure the employment of qualified persons in the state preferred service.

(d) The personnel administration system adopted under this chapter shall govern and limit all other state employment matters and every appointing authority.

SECTION 3. Tennessee Code Annotated, Section 8-30-102, is amended by deleting the section in its entirety and by substituting instead the following:

(a) Except as provided in subsection (b), this chapter applies to all personnel in state service. "State service" means all officers and positions of trust or employment in the service of state government in the executive branch and all boards, commissions and agencies of state government, except those specifically excluded in this chapter.

(b) This chapter does not apply to the following:

(1) The legislative branch of state government including, but not limited to, employees of the fiscal review committee, and employees of any other committee, office or other entity created pursuant to law or

resolution of either house of the general assembly for the purpose of serving either or both houses of the general assembly in executing its duties under the Constitution of Tennessee;

(2) The judicial branch of state government including, but not limited to, employees of the administrative office of the courts;

(3) The office of the secretary of state;

(4) The office of the state treasurer;

(5) The office of the comptroller of the treasury;

(6) The office of the attorney general and reporter;

(7) The offices of the district attorneys general and the district public defenders;

(8) The schools, institutions and entities governed by the board of regents and the University of Tennessee board of trustees, including the members of the teaching staffs and the staffs of the boards themselves; and only certified professional employees of the Tennessee School for the Blind, Tennessee School for the Deaf, West Tennessee School for the Deaf, Alvin C. York Institute, and any other special school hereafter established;

(9) Any administrative boards and commissions, or any other officers or employees, attached to the entities listed in subdivisions (b)(1)-

(8) for administrative purposes;

(10) The Tennessee higher education commission and all employees of that commission;

(11) All employees of the Tennessee advisory commission on intergovernmental relations; and

(12) The Tennessee Housing Development Authority and all employees of that authority.

(c) The commissioner shall, upon request of the heads of any of the excluded entities enumerated above, perform any of the functions set forth in this chapter. Such a request shall not be deemed to make the provisions of this chapter applicable to those entities.

SECTION 4. Tennessee Code Annotated, Section 8-30-103, is amended by deleting the section in its entirety and by substituting instead the following:

As used in this chapter, unless the context otherwise requires:

(1) "Appointing authority" means a commissioner, department, officer or agency having power to make appointments to, and separations from, positions in state service;

(2) "Board of appeals" refers to the state employees' appeals board established by § 8-30-108 of this chapter;

(3) "Class" or "class of positions" means a group of positions in state service determined by the commissioner to have sufficiently similar duties, authority, and responsibility such that:

(A) The same qualifications may be reasonably required for; and

(B) The same schedule of pay may be equitably applied to; all positions in the group;

(4) "Commissioner" refers to the commissioner of human resources appointed under § 8-30-104 of this chapter;

(5) "Department" refers to the department of human resources pursuant to § 8-30-104 of this chapter. The term includes the commissioner;

(6) "Eligible" means an applicant meeting minimum qualifications whose name is on a list;

(7) "Executive service" means all other positions that have not been placed under the preferred service and as are described in § 8-30-202.

(8) "List" means a list of eligibles, including, but not limited to, a promotion list;

(9) "List of Eligibles" means a list of applicants who meet the minimum qualifications for appointment to a position as determined by the department;

(10) "Official Station" means the town or city where the employee performs a majority of his or her duties;

(11) "Preferred service" means all offices and positions of employment in the state service that have been placed under the preferred service provisions of this chapter;

(12) "State agency" means an authority, board, branch, commission, committee, department, division, or other instrumentality in state service that is subject to this chapter; and

(13) "State service" shall have the same meaning assigned in § 8-30-102(a).

SECTION 5. Tennessee Code Annotated, Section 8-30-104, is amended by deleting the section in its entirety and by substituting instead the following:

(a) The commissioner, as executive head of the department of human resources, shall direct and supervise all administrative and technical human resources activities of state service. In addition to other authority and responsibilities imposed upon the commissioner by law, the commissioner shall have the authority to:

(1) Survey the administrative organization and procedures, including personnel procedures, of all state agencies, and submit to the governor measures to do the following among state agencies:

(A) Secure greater efficiency and economy;

(B) Minimize the duplication of activities; and

(C) Effect better organization and procedures.

(2) Prescribe rules and regulations for the administration and execution of this chapter in accordance with the Uniform Administrative Procedures Act;

(3) Develop personnel policies, methods, procedures, and standards for all state agencies;

(4) Establish and maintain a roster of all employees in state service;

(5) Appoint such departmental employees, experts, and special assistants as may be necessary to carry out the provisions of this chapter;

(6) Establish, execute and administer a classification and compensation plan for all employees in state service;

(7) Approve or disapprove and record the appointments, transfers, demotions, promotions, suspensions, dismissals, layoffs, reclassifications, reappointments, resignations, sick, annual, compensatory and special leave, and hours of service of employees;

(8) Implement a job performance evaluation system for employees in state service;

(9) Make available education development specialists, who will administer educational and training programs for employees in the state service, including legal compliance, professional skills, talent

development and leadership development. The commissioner shall approve any out-service training for state employees;

(10) Require that appointing authorities notify the employee of the right to appeal his or her dismissal, demotion or suspension, if any such right exists, and the time in which the employee must exercise his or her right to appeal;

(11) Make available employee relations specialists to:

(A) Offer assistance in employment related problems; and

(B) Help employees understand the procedures that are available for appeals;

(12) Evaluate the need for existing positions and approve new positions in state service and compensation for such positions;

(13) Check all payrolls and other compensation for personal services, and supply the information to the commissioner of finance and administration, before the same may be properly authorized for payment;

(14) Investigate personnel, salary rate and ranges, and employment conditions in state service as may be requested by the governor, and require the attendance of witnesses and production of documentary evidence pertinent to any such investigation;

(15) Process for payroll entry the personnel records of the state special schools; the state board of education shall have the exclusive authority to employ such personnel and determine their compensation;

(16) Implement, administer, and enforce this chapter and rules and policies adopted under this chapter; and

(17) Perform any other lawful acts that the commissioner considers necessary or desirable to carry out the provisions of this chapter.

(b) All supervisory personnel, during the time such person is employed by the state to hold such position, shall be physically present in Tennessee while supervising employees working within Tennessee unless business reasons require out-of-state travel. Supervisory personnel shall include any person who oversees, directs or manages the work, work flow, or employees in the performance of their daily duties. Nothing in this subsection (b) shall be construed as prohibiting telework policies issued by the department.

(c) The commissioner and appointing authorities may appoint a designee as they deem necessary to act within the scope of this chapter.

SECTION 6. Tennessee Code Annotated, Section 8-30-105, is amended by deleting the section in its entirety and by substituting instead the following:

Rules adopted under the provisions of this chapter shall have the force and effect of law, and may include any provision relating to state employment consistent with the laws of this state, which may be necessary or appropriate to give effect to the provisions and purposes of this chapter.

SECTION 7. Tennessee Code Annotated, Section 8-30-106, is amended by deleting the section in its entirety and by substituting instead the following:

To carry out the purposes of this chapter, the department may do the following:

(1) Contract with persons outside the department as the commissioner deems necessary;

(2) Administer oaths;

(3) Issue subpoenas to compel the attendance of witnesses and the production of documents related to any investigation or hearing authorized by this chapter and secure enforcement of such subpoenas by petition to the chancery court of Davidson County, Tennessee; and

(4) Maintain such action or proceeding at law or in equity as the commissioner considers necessary or appropriate to secure compliance with this chapter and the rules, regulations and orders issued hereunder.

SECTION 8. Tennessee Code Annotated, Section 8-30-107, is amended by deleting the section in its entirety and by substituting instead the following:

(a) All officers and employees of the state shall comply with the provisions of this chapter and the rules, regulations and orders established pursuant to this chapter, unless a specific exemption applies.

(b) A state officer or employee who fails to comply with any provision of this chapter or with any rule, regulation or order thereunder commits a Class C misdemeanor.

SECTION 9. Tennessee Code Annotated, Section 8-30-108, is amended by deleting the section in its entirety and substituting instead the following:

(a) There is created and established in the department of human resources a board of appeals of nine (9) members.

(b) The members of the board of appeals shall be citizens of the state. No member of the board of appeals shall be a member of any state or national committee of a political party or shall hold or be a candidate for any public office.

(c) The governor shall appoint the members of the board of appeals from the public at large. Of the nine (9) members newly appointed, three (3) shall be appointed for a term of two (2) years, three (3) for a term of four (4) years, and three (3) for a term of six (6) years. Thereafter, each member shall be appointed for a term ending six (6) years from the date of the expiration of the term, for

which the member's predecessor was appointed. A person appointed to fill a vacancy occurring prior to the expiration of such term shall, however, be appointed for only the remainder of the unexpired term. The governor may remove a member of the board of appeals for cause. Removal for cause may include, but is not limited to, three (3) consecutive absences from a meeting of the board of appeals.

(d) The commissioner shall establish the pay for the members of the board of appeals by rule. The members of the board of appeals shall be entitled to reimbursement for reasonable necessary travel expenses in accordance with the state comprehensive travel regulations promulgated by the department of finance and administration.

(e) The board of appeals shall elect one (1) of its members as chair. The board of appeals shall meet at least once every three (3) months and at such other times as shall be specified by call of the chair, the commissioner of human resources, or the governor. Notice of each meeting shall be given in writing to each member by the commissioner, and such notice shall specify the place and the time of the meeting. Three (3) members shall constitute a quorum.

(g) In addition to the duties expressly imposed upon the board of appeals elsewhere in this chapter, the board of appeals shall have jurisdiction to hear appeals brought pursuant to this chapter and regulations promulgated pursuant thereto. The board of appeals shall also be the final step in the appeals procedure provided for preferred service employees.

SECTION 10. Tennessee Code Annotated, Section 8-30-201, is amended by deleting the section in its entirety and by substituting instead the following:

State service is divided into the preferred service and executive service.

SECTION 11. Tennessee Code Annotated, Section 8-30-202, is amended by deleting the section in its entirety and by substituting instead the following:

(a) The following positions shall be executive service positions:

(1) Any officer or employee appointed by the governor and all positions in the governor's office;

(2) Any deputy commissioner or equivalent authority in each department or state agency;

(3) Any assistant commissioner or equivalent authority in each department or state agency;

(4) Wardens and directors of correctional facilities identified in Title 41 and chief officers of mental health institutes or developmental centers identified in Title 33;

(5) The head of a division or major unit within a state agency or a regional director or manager for a state agency, regardless of the title of

the position, who, as a substantial part of the position's duties, provides meaningful input on:

(A) The development of policy goals; or

(B) The implementation of policy;

(6) The highest ranking employee of a state agency who has a primary responsibility for one (1) or more of the following functions:

(A) Public information and legislative affairs;

(B) Fiscal, budget and audit matters;

(C) Security or internal affairs;

(D) Information technology systems; and

(E) Human resources;

(7) A clinical director, medical director, or other licensed physician;

(8) A licensed attorney engaged in the practice of law and representing the state in such capacity; and

(9) Any position serving in a confidential capacity to a commissioner, deputy commissioner, assistant commissioner or equivalent authority.

(b) An employee in the executive service is an employee at will and serves at the pleasure of the employee's appointing authority.

(c) All other full-time positions in state service shall be in the preferred service.

(d) An employee becomes a member of the preferred service upon successful completion of the probationary period under the provisions of this chapter.

(e) Preferred service employees include any commissioned member of the department of safety, below the rank of captain, serving in the capacity of executive security, who has been so certified by the commissioner of safety to the commissioner of human resources.

(f) The commissioner shall determine equivalent levels for the purpose of assigning positions not specifically addressed in subsection (a) to the preferred or executive service. Such determination may be based on duties, responsibilities and reporting relationships and shall not be subject to review through any procedure. However, within any department, implementation of this provision shall not jeopardize federal funding resources.

SECTION 12. Tennessee Code Annotated, Section 8-30-203, is amended by deleting the section in its entirety and by substituting instead the following:

(a) The commissioner, after consulting with appointing authorities and other qualified authorities, shall determine, or cause to be determined, the authority, duties, and responsibilities of all positions in the state preferred service.

(b) The commissioner shall prepare a classification plan that groups all positions in the preferred service in classes, based on the authority, duties, and responsibilities of each position. The classification plan must set forth, for each class of positions, the class title and a statement of the authority, duties, and responsibilities of the class. Each class of positions may be subdivided, and classes may be grouped and ranked in such manner as the commissioner considers appropriate.

(c) The commissioner shall periodically:

(1) Review the positions in the state preferred service; and

(2) Reallocate the positions to the proper classes based on the duties and responsibilities of the positions at the time of the review under subdivision (1).

(d) The commissioner shall also prepare a statement of minimum qualifications for each class of positions in the preferred service.

SECTION 13. Tennessee Code Annotated, Section 8-30-204, is amended by deleting the section in its entirety and by substituting instead the following:

Before establishing a new position in the preferred service or making a material change in the authority, duties, or responsibilities of a position in such service, an appointing authority shall receive approval from the commissioner in writing.

SECTION 14. Tennessee Code Annotated, Section 8-30-205, is amended by deleting the section in its entirety and by substituting instead the following:

The commissioner may, at any time, allocate any new position to a class, or change the allocation of any position to a class, or make changes in the classification plan. If any change is made in the classification plan by which a class of positions is divided, altered, or abolished, or the classes are combined, the commissioner shall reallocate the positions and/or the affected employee to the appropriate class.

SECTION 15. Tennessee Code Annotated, Section 8-30-206, is amended by deleting the section in its entirety and by substituting instead the following:

No person shall be appointed to or employed in a position in the preferred service under a classification title that has not been approved by the commissioner as appropriate to the duties to be performed. Nothing in this

section prohibits the use of working job titles assigned by the appointing authority.

SECTION 16. Tennessee Code Annotated, Section 8-30-207, is amended by deleting the section in its entirety and by substituting instead the following:

(a) The commissioner shall prepare and recommend to the governor a compensation plan for all employees. Such compensation plan shall include, for each class of positions, a minimum and maximum rate, and such intermediate rates as the commissioner considers necessary or equitable. In establishing such rates, the commissioner shall consider the ability to effectively recruit for positions in state service, the prevailing rates of pay for the services performed and for comparable services in public and private employment, living costs, other benefits received by employees, and the state's financial condition and policies. The compensation plan shall take effect when approved by the governor. The commissioner may initiate and recommend amendments, from time to time, to the governor. Each employee shall be paid at one of the rates set forth in the compensation plan for the class of positions, in which he or she is employed. The commissioner may approve payment at a rate above that assigned to the employee's position in the compensation plan when he or she determines it to be in the interest of the state. Nothing in this chapter shall be construed to affect salary surveys and compensation schedules conducted and implemented pursuant to statute, including, but not limited to title 4, chapter 7, part 2.

(b) Notwithstanding any provision of law to the contrary, the commissioner shall establish guidelines to govern the distribution of any funds which may be available for merit pay for members of the state service.

(1) The guidelines shall establish objectively measurable criteria, which ensure that the merit pay system:

(A) Rewards above-average performance;

(B) Improves efficiency;

(C) Encourages participation in programs that will improve job performance and skills; and

(D) Does not permit, facilitate or promote discrimination on account of race, color, national origin, gender, age, disability, religion or creed, veteran's status or political opinions or affiliations.

(2) Such guidelines shall also provide that merit pay funds are consistently distributed in a fair and equitable manner.

(c) Each employee whose job conduct and performance are satisfactory shall receive a periodic salary increase, if and when, authorized by the legislature; provided, that employees at or above the top step of their salary ranges shall not be eligible for such a salary increase. Periodic salary increases shall only be awarded to employees who have completed twelve (12) continuous

months of state service as of July 1 of each year. Employees who have not completed twelve (12) continuous months of state service as of July 1 of each year shall be eligible for a periodic salary increase upon completion of twelve (12) continuous months of state service. Periodic salary increases shall be subject to availability of funds as provided in the general appropriations act for each fiscal year.

SECTION 17. Tennessee Code Annotated, Section 8-30-208, is amended by deleting the section in its entirety and by substituting instead the following:

The commissioner shall establish guidelines for the accumulation and use of state compensatory time not governed by the Fair Labor Standards Act. Employees who accumulate the maximum number of hours of state compensatory time or more shall be paid for each additional hour of overtime worked based on that employee's hourly wage. Payment shall be made at the end of each pay period for eligible hours accumulated during the previous pay period.

SECTION 18. Tennessee Code Annotated, Section 8-30-209, is amended by deleting the section in its entirety and by substituting instead the following:

No preferred service employee shall be assigned to perform the majority of the duties and responsibilities of a position in a higher level classification than that of the position occupied by the employee, without the approval of the appointing authority. When an employee is so assigned, the duration of such assignment may not exceed ninety (90) days without the approval of the commissioner. The commissioner, in consultation with the commissioner of finance and administration, shall establish a procedure under which an employee who is assigned to perform the majority of the duties and responsibilities of a higher level classification for a period in excess of ninety (90) days shall receive additional compensation for such assignment.

SECTION 19. Tennessee Code Annotated, Section 8-30-210, is amended by deleting the section in its entirety and by substituting instead the following:

(a) No employee may receive payment, unless the commissioner or the commissioner's agent has certified that the employee has been appointed and employed in accordance with the provisions of this chapter and the rules, regulations and orders issued thereunder.

(b) If the commissioner wrongfully withholds certification of the payroll voucher or account of any employee, the employee may maintain a proceeding in a court of record to compel the commissioner to certify such payroll voucher or account.

SECTION 20. Tennessee Code Annotated, Section 8-30-211, is amended by deleting the section in its entirety and by substituting instead the following:

The commissioner may bring an action to recover any sum paid contrary to any provision of this chapter or of any rule, regulation or order thereunder from:

(1) Any employee who made, approved or authorized such payment or who signed or countersigned a voucher, payroll, check or warrant for such payment;

(2) The sureties on the official bond of any such officer; or

(3) Any employee who incorrectly or improperly received any payment from the state.

All moneys recovered in any such action shall be paid into the state treasury.

SECTION 21. Tennessee Code Annotated, Section 8-30-212 through and including Section 8-30-224 are amended by deleting such sections in their entirety.

SECTION 22. Tennessee Code Annotated, Section 8-30-301, is amended by deleting the section in its entirety and substituting instead the following:

(a) The commissioner shall inform prospective applicants for state employment of the process for obtaining state employment.

(b) The commissioner shall give public notice of a job opening at least one week prior to the closing of the application period.

(c) The commissioner shall include the duties of, and pay for, the position or the class, the qualifications required for such position, and any other information that the commissioner considers pertinent and useful. The notice shall also state the requisite assessment method.

(d) All assessments administered by the department, the total bank of questions from which such assessments were developed and the answers thereto shall be confidential and shall not be public records or state records open for public inspection in accordance with § 10-7-503.

SECTION 23. Tennessee Code Annotated, Section 8-30-302, is amended by deleting the section in its entirety and substituting instead the following:

(a) If an executive service position is reassigned to the preferred service, the incumbent employee may, within one (1) year, be given a noncompetitive assessment in a manner prescribed by the commissioner.

(b)

(1) The commissioner shall certify whether each employee has met the minimum qualifications to retain the position. Upon certification, the employee shall be classified as a preferred service employee.

(2) An employee who is not certified shall be dismissed from the position as soon as is practicable, but no later than sixty (60) days after certification, unless the appointing authority notifies the commissioner that the employee has rendered satisfactory service and should be retained.

SECTION 24. Tennessee Code Annotated, Section 8-30-303, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) The commissioner shall, from time to time, conduct the assessments that the commissioner considers necessary for the purpose of establishing lists of eligibles.

(2) The assessments shall be competitive and shall be designed to determine the qualifications, fitness and ability of the applicant to perform the duties of the class of positions for which a list is to be established. The assessment may consist of a written, oral, or physical exam, or a demonstration of skills, or any combination of such types. The assessment may also consist of an evaluation of education, experience, skill, ability, competency, knowledge, aptitude, capacity, character, and other qualifications as, in the judgment of the commissioner, may determine and measure the relative ability of the applicant.

(3) No part of an assessment shall be framed to elicit information concerning the race, color, national origin, gender, age, disability, religion or creed, or political opinions or affiliations of an applicant.

(b) The commissioner may substitute a working test period in lieu of a written assessment for an applicant with a disability, who has been certified as unable to perform such a test by the department. The working test period shall not exceed one (1) year.

(c) The commissioner shall notify each applicant in writing of the results of the assessment as soon as reasonably practicable.

(d) A manifest error in the assessment result shall be corrected, if called to the attention of the commissioner within one (1) month after the establishment of the list of eligibles. The correction, however, shall not invalidate any appointment previously made from such list.

SECTION 25. Tennessee Code Annotated, Section 8-30-304, is amended by

deleting the section in its entirety and substituting instead the following:

(a) The commissioner may reject the application of any person for admission to an assessment or may strike the name of a person from a list, if the department determines that the applicant:

(1) Lacks any of the required qualifications;

(2) Is incapable of performing the essential functions of the position that the applicant is seeking;

(3) Has been convicted of a crime rendering the applicant unsuitable for a particular position;

(4) Has been dismissed for cause from state service;

(5) Has made a false statement of a material fact; or

(6) Committed or attempted to commit a fraud or deception in connection with submitting an application or attempting to secure an appointment to state service.

(b) Any person whose name is removed from a list of eligibles for any reason shall be notified.

SECTION 26. Tennessee Code Annotated, Section 8-30-305, is amended by deleting the section in its entirety and substituting instead the following:

(a) The commissioner shall establish and maintain a list of eligibles for the various classes of positions as the commissioner deems necessary or desirable to meet the needs of the service.

(b) At the time a list of eligibles is established, the commissioner shall determine the period during which such list shall remain in force.

SECTION 27. Tennessee Code Annotated, Section 8-30-306, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) Whenever an appointing authority proposes to fill a position in the preferred service, the authority shall submit to the commissioner a statement showing the position to be filled, the duties for such position, the official station, the minimum qualifications and preferred skill, abilities, competencies and knowledge of the person to be appointed.

(2) The commissioner shall refer a list of eligibles who meet the minimum qualifications for the position.

(3) An appointing authority must offer an invitation to interview to a minimum of three (3) applicants from the referred list of eligibles, if three (3) or more applicants are on the list. If less than three (3) applicants are on the list of eligibles, the appointing authority must invite each person on the list to interview.

(4) Within thirty (30) days after being referred a list of eligibles, the appointing authority shall appoint, one (1) of the applicants on the list of eligibles.

(b) Upon the request of the appointing authority, the commissioner may establish employment, promotional, unit, divisional or any other list of eligibles as deemed necessary or appropriate.

(c) If the official station of the vacancy to be filled is permanently located outside the geographic boundaries of the state of Tennessee, then the appointing authority may fill the vacancy without complying with subsections (a) and (b).

(d) In applying the provisions of this chapter, no person shall give any weight to political opinions or affiliation. No person holding a position in the preferred service shall solicit, directly or indirectly, or require any other person to solicit, directly or indirectly, donations or contributions for any political party, candidate, cause or purpose in order to acquire or deny a position in state service or to materially affect the retention, promotion or demotion of any employee in state service.

SECTION 28. Tennessee Code Annotated, Section 8-30-307, is amended by deleting the section in its entirety and substituting instead the following:

(a) When invitations to interview candidates are extended, whether for appointment or promotion, and the list of eligibles includes any person who has been honorably discharged from the army, navy, air force, marine corps or coast guard or any member of the reserve components, as defined in 10 U.S.C. § 10101, who performs active federal service in the armed forces of the United States, these persons must be invited to interview.

(b) If a veteran is on the list of eligibles, and if the minimum qualifications and the skills, abilities, competencies and knowledge of the veteran and any another applicant being interviewed for the position are equal, preference will be given to the veteran for the position.

(c) When invitations to interview candidates are extended, whether for appointment or promotion, the spouse or surviving spouse of a veteran must be invited to interview, if the spouse or surviving spouse is a qualified voter in Tennessee or has been a resident of this state for two (2) years preceding such person's application, and one of the two following circumstances exists:

(1) As a result of such military service, the veteran suffered a one hundred percent (100%) service-connected disability or is permanently and totally disabled; or

(2)

(A) The veteran died in the line of duty during such military service; and

(B) The surviving spouse has not remarried since the death of the veteran.

(d) Any appointing authority who passes over an eligible veteran and selects an eligible nonveteran shall file with the commissioner, within thirty (30) days, the reasons for so doing, which reasons will become a part of the veteran's record, but will not be made available to anyone other than the veteran, except in the discretion of the appointing authority.

SECTION 29. Tennessee Code Annotated, Section 8-30-308, is amended by deleting the section in its entirety and substituting instead the following:

(a) Every person appointed to a position in the preferred service shall be subject to a probationary period of employment. The probationary period shall commence immediately upon appointment and shall continue for such time, not less than one (1) year, as shall be established by the commissioner. At any time during the employee's probationary period the appointing authority may remove the employee if, in the opinion of the appointing authority, the employee's performance or conduct during the probationary period indicates that such employee is unable or unwilling to satisfactorily perform or is not satisfactorily performing his or her duties, or that the employee's habits, dependability, or conduct do not merit continuance in the service.

(b) During the last month of an employee's probationary period, the appointing authority shall notify the commissioner in writing whether the performance and conduct of the employee have been satisfactory and whether continued employment is recommended.

SECTION 30. Tennessee Code Annotated, Section 8-30-309, is amended by deleting the section in its entirety and substituting instead the following:

(a) When an appointing authority desires to fill a position in the preferred service, and the commissioner cannot timely evaluate the list of eligibles for such vacancy, the commissioner may authorize the appointing authority to fill the position by temporary appointment for a period not to exceed six (6) months. A temporary appointee shall hold a position only until an appropriate list has been established, the required evaluation is completed, and the appointment of the preferred service employee begins. No temporary appointment shall be renewed.

(b) An appointing authority may, with the approval of the commissioner, temporarily fill an existing preferred service position, for a period not to exceed ninety (90) days, by utilizing a temporary staffing service having a contract with the state to provide short-term temporaries. The provisions of this subsection (b) apply only to the utilization of vendor-supplied temporaries.

(c) If the position to be filled is not officially vacant, the appointing authority must obtain the commissioner's approval to overlap the position with another prior to making an appointment.

SECTION 31. Tennessee Code Annotated, Section 8-30-310, is amended by deleting the section in its entirety and substituting instead the following:

When an emergency occurs, affecting the ability to fill a position in the preferred service under any other provision of this part, an appointing authority, in order to prevent stoppage of public business or loss or serious inconvenience to the public, may appoint any qualified person to such position with the approval of the commissioner. Any such person shall be employed only during such emergency and for a period not exceeding one hundred twenty (120) days. No such appointment shall be renewed.

SECTION 32. Tennessee Code Annotated, Section 8-30-311, is amended by deleting the section in its entirety and substituting instead the following:

For positions involving basic clerical, unskilled or semiskilled labor, or domestic, attendant or custodial work, when the character or place of the work makes it impracticable to supply the needs of the service by appointments made in accordance with the procedure prescribed by this part, the commissioner may adopt, or authorize the use of, such other procedures as the commissioner determines to be appropriate in order to meet the needs of the service.

SECTION 33. Tennessee Code Annotated, Section 8-30-312, is amended by deleting the section in its entirety and substituting instead the following:

(a) An appointing authority may at any time assign an employee from one position to another position in the same job classification or rank within the same department. Upon making such assignment, the appointing authority shall give written notice of such action and the reasons for such action to the commissioner.

(b) A transfer of an employee from one department to another may be made with the approval of the commissioner and of the appointing authorities. The appointing authority, or authorities, with the approval of the commissioner, shall have authority to make such a transfer for any reason that they may deem to be for the good of the

service. Their actions shall not be subject to appeal except as provided in this chapter.

(c) No employee shall be transferred from a position in one class to a position in another class of a higher rank or for which there are substantially dissimilar requirements for appointment, unless the employee is appointed to such latter position after certification of the employee's name from a list of eligibles in accordance with the provisions of this chapter.

(d) Any change of an employee from a position in one class to a position in a class of a lower rank shall be considered a demotion, except that the employee shall not be considered to have been demoted and shall not be required to serve a period of probation, if the change from a position in one class to a position in a class of a lower rank occurred:

(1) At the employee's request, with the concurrence of the department or agency; or

(2)

(A) Because of a change in the organizational structure of the government entity;

(B) Because of the abolishment of a position;

(C) As the result of a reduction in force;

(D) For reasons caused by organizational necessity; or

(E) As a result of compliance with § 8-30-205.

SECTION 34. Tennessee Code Annotated, Section 8-30-313, is amended by deleting the section in its entirety and substituting instead the following:

(a) In cooperation with appointing authorities, the commissioner shall establish, and may periodically amend:

(1) The standards of performance for employees;

(2) The expected outcomes for employees; and

(3) A system of job performance evaluations based upon the standards described in subdivisions (1) and (2).

(b) Employee performance standards and expected outcomes must be specific, measurable, achievable, relevant to the strategic objective of the employee's state agency or division, and time sensitive.

(c) Each appointing authority shall, at periodic intervals (but at least annually), make, and report to the commissioner, job performance evaluations for the employees in the appointing authority's department or state agency. Upon request by the commissioner, the appointing authority shall provide the information on which the appointing authority relied in evaluating job performance.

(d) The performance evaluations of state service employees shall not be considered public records under § 10-7-503. Nothing in this subsection shall be construed to limit access to these records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(e) Job performance evaluations may be used as follows:

(1) To determine salary increases and decreases within the limits established by the compensation plan developed under the provisions of this chapter;

(2) As a factor in making or denying promotions; and

(3) As a means of determining employees:

(A) Who are candidates for promotion or transfer;
or

(B) Who, because of a low job performance evaluation, are candidates for demotion, dismissal or reduction in force.

(f) On or before July 1, 2013, the department of human resources shall report to the state and local government committees of the senate and house of representatives on the job performance evaluation system, and shall provide to those committees a copy of any rules or regulations promulgated with respect to the performance evaluation system.

SECTION 35. Tennessee Code Annotated, Section 8-30-314, is amended by deleting the section in its entirety and substituting instead the following:

(a) An appointing authority has the authority to layoff or furlough employees or reduce hours of employment for any of the following reasons:

(1) Lack of funds;

(2) A reduction in spending authorization;

(3) Lack of work;

(4) Efficiency; or

(5) Other material change in duties or organization.

(b) The appointing authority has the authority to determine the extent, effective dates, and length of a layoff, furlough, or reduction in hours taken under subsection (a).

(c) The appointing authority shall determine the classifications affected and the number of employees laid off in each classification and each county to which a layoff applies.

(d) The commissioner shall approve all reductions in force and no such layoff, furlough, or reduction in hours may begin until such approval has been granted.

(e) In determining a layoff, the appointing authority must consider all employees under the same appointing authority, within the classification affected, and within the county affected and must also consider job performance evaluations as the primary factor. Thereafter, consideration shall be given to the following relevant factors:

(1) Seniority;

(2) Skills, abilities, competencies and knowledge; and

(3) Disciplinary record.

(f)

(1) Any preferred service employee whose position is abolished because of a reduction-in-force shall be provided written notice containing the reason for the layoff at least thirty (30) days in advance of the effective date for abolishing the position. This thirty-day period shall be used for career counseling, job testing and placement efforts.

(2) Subject to certification by the commissioner of finance and administration that the rainy day fund, also known as the revenue fluctuation reserve fund, is likely to fall below two hundred million dollars (\$200,000,000), any notice required by this section may be reduced to a different period of time, but not less than fourteen (14) days.

(3) Nothing in this section shall place the state in a position of liability for the portion of any employee's salary attributed to a governmental grant in cases when the state had less than one hundred twenty (120) days' notice of the funding reduction. Nor shall the requirement for notice prohibit any agency from closing the fiscal year with a balanced budget. In such cases, employees shall be provided the maximum notice possible.

(4) For purposes of seniority as a consideration for a reduction in force, a person with veteran's status, as defined in § 8-30-307, shall have an additional sixty (60) months of service credit added to their total months of state service.

(5) Any preferred service employee whose position is abolished because of a reduction-in-force shall receive the employee's final paycheck, including accumulated leave, no later than thirty (30) days after the date of layoff.

(g) A position in the preferred service shall not be considered to have been abolished as provided in subsection (a) if the same or essentially similar duties, as determined by the commissioner, are incorporated in a new position in the same agency within one (1) year after the effective date of the layoff that resulted in the position abolishment. Any preferred service employee so affected by abolishing the position shall be offered the newly established position upon application. The newly established position to which the employee returns shall not be placed in the executive service, but shall remain in the preferred service.

(h) Notwithstanding any other law to the contrary, including, but not limited to, § 4-4-105, the reduction of scheduled hours of work authorized by this section shall include the closing of any or all state departments on any day or partial day of the week, when determined to be necessary by the governor as a result of reductions in funding levels.

(i) If at any time prior to or during any reduction-in-force the governor determines that the reduction-in-force will materially impair and/or disrupt governmental services to the public, the governor shall notify the speaker of the senate and the speaker of the house of representatives of the anticipated impairment and/or disruption of such governmental services. The governor shall advise the speakers of the actions that the governor and the affected department or departments will undertake to minimize the impairment and/or disruption of such governmental services.

(j) An employee who is laid off as a result of a reduction-in-force shall be invited to interview when an agency offers invitations to interview applicants for the same job classification that the employee served immediately prior to the layoff. In order to be eligible to interview under this subsection (j), the employee must respond to the public notice of the job opening and the employee must not have been laid off more than one (1) year prior to the posting of the public notice of the job opening.

SECTION 36. Tennessee Code Annotated, Section 8-30-315, is amended by deleting the section in its entirety and substituting instead the following:

An appointing authority may suspend without pay an employee, for disciplinary purposes, for such length of time as the authority

considers appropriate, not exceeding thirty (30) days in any twelve-month period. With the approval of the commissioner, an employee may be suspended for a longer period pending the appeal or the processing of an appeal in accordance with this chapter.

SECTION 37. Tennessee Code Annotated, Section 8-30-316, is amended by deleting the section in its entirety and substituting instead the following:

(a) An employee in the preferred service who has successfully completed a probationary period becomes a preferred service employee and may be dismissed, demoted, or suspended for cause. The dismissal of a preferred service employee will take effect immediately after the appointing authority gives notice to such employee and files a written statement with the commissioner. The employee shall continue to receive compensation for ten (10) days following the date of dismissal.

(b) An appointing authority may dismiss any employee when the authority determines that the good of the service will be served thereby. Whenever an employee is dismissed "for the good of the service," the notice of termination must outline the reasons for dismissal.

(c) If an employee in state service willfully refuses or fails to appear before any legislative committee, or any officer, board or body authorized to conduct any hearing or inquiry, the employee shall forfeit his or her position and shall not be eligible for appointment to any position in state service.

(d) Any employee who is absent from duty for more than three (3) consecutive work days without giving prior written or electronic notice to the appointing authority or appropriate manager that specifies the reason for such absence, and without securing permission to be on leave, or who fails to report for duty or to the immediate supervisor or the appointing authority within two (2) work days after the expiration of any authorized leave of absence, is considered as having resigned not in good standing, absent extenuating circumstances beyond the control of the employee causing the employee's absence or preventing the employee's return. An employee deemed to have resigned in accordance with these circumstances shall have the right to appeal such action through the appeal procedure described herein.

(e) The commissioner may dismiss an employee if the commissioner finds that the employee was appointed as a result of fraud.

(f) A preferred service employee is entitled to appeal a dismissal, demotion, or suspension as provided in § 8-30-318.

SECTION 38. Tennessee Code Annotated, Section 8-30-317, is amended by deleting the section in its entirety and substituting instead the following:

The department of human resources and the department of finance and administration shall report electronically each month to the finance and ways and means committees of the senate and house of representatives and the fiscal review committee on bona fide employee promotions, showing clearly by department the names and the increases in pay as a result of such promotions. The departments shall also furnish an electronic copy of the report to the speakers of the senate and house of representatives and upon request to any member of the general assembly. The report shall also include employee transfers, dismissals, terminations, demotions, separations, positions reclassified from the preferred service to the executive service, and position abolishments showing clearly by department the name and title of each employee affected and such employee's position after such action.

SECTION 39. Tennessee Code Annotated, Section 8-30-318, is amended by deleting the section in its entirety and substituting instead the following:

(a) The department shall promulgate regulations establishing an appeal procedure for employees.

(b) An employee in the preferred service system, who has successfully completed the required probationary period, may file a complaint concerning the application of a law, rule, or policy to the dismissal, demotion, or suspension of the employee. If the term of the suspension is less than three (3) days, the right to appeal is limited to an appeal to the commissioner under Step II of subsection (h). An employee shall not be entitled to appeal a suspension of less than three (3) days to the board of appeals.

(c) An executive service employee, however, does not have standing to file a complaint under this section.

(d) A complaint filed under this section must identify the law, rule, or policy that was allegedly violated. The party filing the complaint shall have the initial burden of proof, which shall shift to the department or state agency after the complainant has made a prima facie case.

(e) An employee who files a complaint under this section must file the complaint as soon as possible after the occurrence of the act or condition complained of, and not later than fourteen (14) days after the date the employee became aware, or by the exercise of reasonable diligence should have become aware, of the occurrence giving rise to the complaint. If an employee fails to file the complaint within the fourteen-day period, the right to appeal under this chapter lapses and is deemed to have been waived in its entirety by the employee.

(f) For the purposes of this chapter, a complaint is filed when the appointing authority, the commissioner, or the board of appeals, depending on whether the complaint is being made under Step I, II or III

as provided in subsection (h), receives a written or electronic copy of the complaint.

(g) A remedy granted under this section may not extend back more than thirty (30) days before the complaint was filed.

(h) The following appeal procedure is established:

Step I: The complainant shall reduce the complaint to writing and file the complaint with the complainant's appointing authority. The appropriate appointing authority or designee shall conduct any investigation considered necessary, meet with the complainant in person, and issue a decision, in writing, not later than fifteen (15) days after the date the appointing authority receives the complaint. If the appointing authority does not issue a decision fifteen (15) days after the appointing authority receives the complaint, the complainant may appeal to the commissioner by filing the complaint in accordance with Step II.

Step II: If the appointing authority does not find in favor of the complainant, the complainant may appeal to the commissioner of the department of human resources by filing the complaint not later than fourteen (14) days after the date of the appointing authority's written decision. The commissioner of the department of human resources shall review the complaint and the appointing authority's decision, and issue a decision, in writing, not later than thirty (30) days after the date the complaint was filed with the commissioner. If the commissioner does not issue a decision thirty (30) days after the commissioner receives the complaint, the complainant may appeal to the board of appeals in accordance with Step III.

Step III: The complainant or state agency may appeal in writing to the board of appeals not later than fourteen (14) days after the date the complainant, or in the case of a state agency, the state agency receives written notice of the action taken by the commissioner of the department of human resources. Within ten (10) days after the receipt of the appeal, the administrative law judge assigned to assist the board of appeals in the proceedings related to the appeal shall determine whether all previous procedural requirements were completed properly and in a timely manner. If a procedural requirement has not been met, the appeal shall be dismissed. If the procedural requirements have been met, the board of appeals shall conduct proceedings in accordance with the Uniform Administrative Procedures Act as modified herein, to determine if the law, rule, or policy specified in the complaint was violated.

Each hearing under this chapter shall occur before a panel of at least three (3) members of the board of appeals, assisted by one (1) administrative law judge ("ALJ"). The ALJ shall assist at

the hearing by ruling on questions of the admissibility of evidence, swearing witnesses, advising members of the board of appeals on the law of the case, and ensuring that the proceedings are carried out in accordance with this chapter and other applicable law. At no time shall the ALJ take part in the determination of a question of fact. An ALJ, upon timely motion, may decide any procedural question of law.

The board of appeals shall issue its final decision in each proceeding no later than one hundred twenty (120) days after the date of the filing of the appeal with the board of appeals.

(i) In order to ensure that the board of appeals issues its final decision no later than one hundred twenty (120) days after the date of the filing of the appeal, the following conditions shall be imposed on hearings before the board of appeals:

(1) The parties shall participate in a pre-hearing conference no later than twenty (20) days after the filing of the appeal. At the pre-hearing conference, a date must be set on which the hearing before the board of appeals will be held.

(2) All discovery must be completed no later than sixty (60) days after the filing of the appeal.

(3) All motions, both dispositive and non-dispositive, must be ruled on no later than thirty (30) days before the date of the hearing.

(4) Extensions on the deadlines provided herein are only to be granted in extraordinary circumstances. In any event, the granting of an extension shall not extend the one hundred twenty (120) day time period for the board of appeals to issue its decision.

(5) Continuances of the hearing before the board of appeals may be granted only in extraordinary circumstances, as determined by the board of appeals or the ALJ.

(6) Neither party shall be entitled to a petition for reconsideration under § 4-5-317.

(j) Decisions of the board of appeals are subject to judicial review in accordance with the Uniform Administrative Procedures Act, title 4, chapter 5 and the rules and regulations promulgated thereunder, in each case as amended in this chapter.

(k) The board of appeals may award attorney's fees and costs to a successfully appealing employee. The commissioner shall establish by rule the manner in which those fees shall be determined. The

unsuccessful party or other state agency shall pay any fees or costs awarded under this subsection.

(l) If the employee is successful in obtaining reinstatement to a position from which the employee has been terminated, the employee shall be reinstated to a position in the county in which he or she was employed at the time of termination. The commissioner may grant exceptions on a case-by-case basis.

(m) In any case in which a successful complainant has been awarded reinstatement, back pay or attorney's fees, the agency involved shall have a period of thirty (30) days from the date of the final order within which to provide reinstatement, back pay and/or attorney's fees.

SECTION 40. Tennessee Code Annotated, Section 8-30-319, is amended by deleting the section in its entirety and substituting instead the following:

(a) The supervisor is responsible for maintaining the proper job performance level, conduct, and discipline of the employees under the supervisor's supervision. When corrective action is necessary, the supervisor should administer disciplinary action at the step appropriate to the infraction, conduct, or performance, as determined by the supervisor.

(b) Upon written application by the employee, any written warning or written follow-up to an oral warning, which has been issued to an employee, shall be expunged from the employee's personnel file after a period of two (2) years; provided, that the employee has had no further disciplinary actions with respect to the same area of performance, conduct, and discipline.

SECTION 41. Tennessee Code Annotated, Section 8-30-320 through and including Section 8-30-333 are repealed.

SECTION 42. Tennessee Code Annotated, Section 8-30-401, is amended by deleting the section in its entirety and substituting instead the following:

The commissioner may enter into agreements with any municipality or political subdivision of the state to furnish services and facilities of the department to such municipality or political subdivision in the administration of its personnel. Any such agreement shall provide for the reimbursement to the state of the reasonable cost of the services and facilities furnished, as determined by the commissioner. All municipalities and political subdivisions of the state are authorized to enter into such agreements.

SECTION 43. Tennessee Code Annotated, Section 8-30-402, is amended by deleting the section in its entirety and substituting instead the following:

All officers and employees of the state and of municipalities and political subdivisions of the state shall allow the department the reasonable use of public buildings under their control for conducting an assessment, hearing or investigation authorized by this part or part 3 of this chapter. The department shall pay to a municipality or political subdivision the reasonable cost of any such facilities furnished by it.

SECTION 44. Tennessee Code Annotated, Section 8-30-403, is amended by deleting the section in its entirety and substituting instead the following:

(a) No person shall make any false statement, certificate, mark, rating or report with regard to any assessment, certification or appointment made under any provision of this chapter, or in any manner commit or attempt to commit any fraud preventing the impartial execution of this chapter.

(b) No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or on account of any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the state service.

(c) No employee of the department, examiner, or other person shall defeat, deceive or obstruct any person in such person's right to an assessment, eligibility, certification or appointment under this chapter, or furnish to any person any special or secret information, for the purpose of affecting the rights or prospects of any person with respect to employment in the preferred service.

SECTION 45. Tennessee Code Annotated is amended by adding the following as a new section, to be designated as Section 8-30-404:

Nothing in this chapter shall be construed to prevent the commissioner, in his or her discretion, from permitting any department in state service from complying with any condition or limitation included in, or affecting any grant from, the federal government or other public or private source.

SECTION 46. Tennessee Code Annotated is amended by adding the following as a new section, to be designated as Section 8-30-405:

Nothing in this chapter shall be construed to prohibit a state employee from engaging in outside employment. Such outside employment shall not adversely affect the employee's performance with the state, create a conflict of interest between such additional employment, or conflict with the regular employment schedule of the employee.

SECTION 47. Tennessee Code Annotated is amended by adding the following as a new section, to be designated as Section 8-30-406:

The rules shall provide for the hours of work, holidays, attendance regulations and leaves of absence in state service. They may contain provisions for annual, sick, and special leaves of absence, with or without pay.

SECTION 48. Tennessee Code Annotated is amended by adding the following as a new section, to be designated as Section 8-30-407:

In computing any period of time prescribed or allowed by this chapter, the date of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday as defined in §15-1-101, or, when the act to be done is the filing of a paper, a day on which the office where the paper to be filed is closed or on which weather or other conditions have made the office inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

SECTION 49. The Tennessee Code Commission is requested to change appropriate references from "civil service" to "state service" and from "career service" to "preferred service" in the code as supplements are issued and volumes are replaced.

SECTION 50. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 51. For purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For the purpose of determining merit pay in accordance with Tennessee Code Annotated § 8-30-207(b) and using job performance evaluations as the primary factor in determining a layoff in accordance with Tennessee Code Annotated § 8-30-314(e), this act shall take effect July 1, 2013, the public welfare requiring it. For all other purposes, this act shall take effect on October 1, 2012, the public welfare requiring it.

On motion, Amendment No. 3 was adopted.

Rep. Ramsey moved that State and Local Government Committee Amendment No. 1 be withdrawn, which motion prevailed.

Rep. Ramsey moved adoption of State and Local Government Committee Amendment No. 2 as follows:

Amendment No. 2

AMEND House Bill No. 2384 By adding the following language after the first sentence in subsection (c) in Section 9 of the bill as amended:

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

The governor shall strive to appoint members that reflect the geographic, racial, and gender diversity of the state population.

On motion, State and Local Government Committee Amendment No. 2 was adopted.

Rep. Sargent moved adoption of Finance, Ways and Means Committee Amendment No. 1, as House Amendment No. 4, as follows:

Amendment No. 4

AMEND House Bill No. 2384 by adding the following language as new subdivision (b)(3) in Section 8-30-207 in Section 16 of the bill as amended:

(b)(3) All employees shall be eligible for merit pay pursuant to rules promulgated by the department.

On motion, Finance, Ways and Means Committee Amendment No. 1, as House Amendment No. 4, was adopted.

Rep. Sargent moved adoption of Finance, Ways and Means Committee Amendment No. 2, as House Amendment No. 5, as follows:

Amendment No. 5

AMEND House Bill No. 2384 by deleting in its entirety the second sentence of subsection (d) in Section 8-30-318 in Section 39 of the bill as amended.

On motion, Finance, Ways and Means Committee Amendment No. 2, as House Amendment No. 5, was adopted.

Rep. Sargent moved adoption of Finance, Ways and Means Committee Amendment No. 3, as House Amendment No. 6, as follows:

Amendment No. 6

AMEND House Bill No. 2384 by deleting subdivision (f)(1) of Section 8-30-314 of Section 35 of the amended bill and substituting instead the following language:

(1)

(A) Beginning October 1, 2012, to December 31, 2013, any preferred service employee whose position is abolished because of a reduction-in-force shall be provided written notice containing the reason for the layoff at least sixty (60) days in advance of the effective date for abolishing the position. This sixty-day period shall be used for career counseling, job testing, and placement efforts.

(B) Beginning January 1, 2014, any preferred service employee whose position is abolished because of a reduction-in-force shall be provided written notice containing the reason for the

layoff at least thirty (30) days in advance of the effective date for abolishing the position. This thirty-day period shall be used for career counseling, job testing, and placement efforts.

On motion, Finance, Ways and Means Committee Amendment No. 3, as House Amendment No. 6, was adopted.

Rep. Sargent moved adoption of Finance, Ways and Means Committee Amendment No. 4, as House Amendment No. 7, as follows:

Amendment No. 7

AMEND House Bill No. 2384 by deleting subsection (e) in Section 8-30-314 in Section 35 of the amended bill and substituting instead the following language:

(e) In determining a layoff, the appointing authority must consider all employees under the same appointing authority, within the classification affected, and within the county affected and must also consider job performance evaluations as the primary factor. Thereafter, consideration shall be given to the following relevant factors:

- (1) Seniority;
- (2) Abilities; and
- (3) Disciplinary record.

On motion, Finance, Ways and Means Committee Amendment No. 4, as House Amendment No. 7, was adopted.

Rep. Sargent moved adoption of Finance, Ways and Means Committee Amendment No. 5, as House Amendment No. 8 as follows:

Amendment No. 8

AMEND House Bill No. 2384 by deleting subsection (j) in Section 8-30-314 in Section 35 of the amended bill and substituting instead the following language as a new subsection (j):

(j) The names of all preferred service employees affected by a reduction-in-force shall be placed on a layoff list maintained by the department. For a period of one (1) year following the date of the layoff, an employee, who is laid off as a result of a reduction-in-force, shall be notified of any job openings in the same job classification that the employee served immediately prior to layoff, shall be extended an invitation to apply for the job, and shall be granted an interview.

On motion, Finance, Ways and Means Committee Amendment No. 5, as House Amendment No. 8, was adopted.

Rep. Sargent moved adoption of Finance, Ways and Means Committee Amendment No. 6, as House Amendment No. 9, as follows:

Amendment No. 9

AMEND House Bill No. 2384 By adding the following language as subsection (c) in the amendatory language of SECTION 26 of the bill as amended

(c) No person who is required to register for the federal draft under 50 U.S.C. Appx. § 453 shall be eligible for employment with the state of Tennessee until such person has registered for such draft.

On motion, Finance, Ways and Means Committee Amendment No. 6, as House Amendment No. 9, was adopted.

Rep. Sargent moved adoption of Finance, Ways and Means Committee Amendment No. 7, as House Amendment No. 10, as follows:

Amendment No. 10

AMEND House Bill No. 2384 by adding the following language as subsection (e) in Section 8-30-203 in Section 12 of the amended bill:

(e) When any position classification is upgraded in the classification plan, all employees in that position classification shall receive any necessary salary adjustment so that the employee's salary does not fall below the minimum range of the classification.

On motion, Finance, Ways and Means Committee Amendment No. 7, as House Amendment No. 10, was adopted.

Rep. Sargent moved adoption of Finance, Ways and Means Committee Amendment No. 8, as House Amendment No. 11, as follows:

Amendment No. 11

AMEND House Bill No. 2384 by adding the following language as subsection (g) in Section 8-30-313 in Section 34 of the amended bill:

(g) In the process of establishing the system of job performance evaluations, the department shall afford representatives of recognized employee groups an opportunity to present facts, views or arguments related to the proposed system of job performance evaluations.

On motion, Finance, Ways and Means Committee Amendment No. 8, as House Amendment No. 11, was adopted.

Rep. Shaw moved the previous question, which motion prevailed.

Rep. Dunn moved that **House Bill No. 2384**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

Ayes 74
Noes..... 19
Present and not voting..... 1

Representatives voting aye were: Alexander, Brooks H, Brooks K, Butt, Campbell, Carr, Casada, Cobb, Coley, Cooper, Dean, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Fitzhugh, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Keisling, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McManus, Miller D, Montgomery, Niceley, Parkinson, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Roach, Sanderson, Sargent, Sexton, Shaw, Shepard, Shipley, Sparks, Swann, Tidwell, Tindell, Todd, Watson, Weaver, White, Williams K, Williams R, Wirgau, Womick, Madam Speaker Harwell -- 74

Representatives voting no were: Armstrong, Brown, Camper, Curtiss, Favors, Hardaway, Harmon, Jones, Kernell, McDonald, Miller L, Odom, Pitts, Richardson, Sontany, Stewart, Turner J, Turner M, Windle -- 19

Representatives present and not voting were: Towns -- 1

A motion to reconsider was tabled.

REQUEST TO CHANGE VOTE

Pursuant to **Rule No. 31**, the following member(s) desire to change their original stand from “not voting” to “aye” on **House Bill No. 2384** and have this statement entered in the Journal: Rep(s). J. DeBerry and Naifeh.

Pursuant to **Rule No. 31**, the following member(s) desire to change their original stand from “not voting” to “no” on **House Bill No. 2384** and have this statement entered in the Journal: Rep(s). Moore.

Pursuant to **Rule No. 31**, the following member(s) desire to change their original stand from “aye” to “no” on **House Bill No. 2384** and have this statement entered in the Journal: Rep(s). Gilmore.

REGULAR CALENDAR, CONTINUED

House Bill No. 3383 -- Tennessee Wildlife Resources Agency - As introduced, makes it a Class A misdemeanor to transport wild-appearing swine into or within the state without appropriate documentation from the department of agriculture. - Amends TCA Title 70, Chapter 4, Part 1. by *Lollar, *Hawk, *Roach, *Ford, *Harrison, *Naifeh, *McDaniel. (*SB2879 by *Southerland, *Burks)

Further consideration of House Bill No. 3383 previously considered on March 29, 2012 and April 5, 2012, at which time it was reset for today's Regular Calendar.

On motion, House Bill No. 3383 was made to conform with **Senate Bill No. 2879**; the Senate Bill was substituted for the House Bill.

Rep. Lollar moved that Senate Bill No. 2879 be passed on third and final consideration.

Rep. Floyd moved that Conservation and Environment Committee Amendment No. 1 be withdrawn, which motion prevailed.

Rep. Dennis moved adoption of Amendment No. 2 as follows:

Amendment No. 2

AMEND House Bill No. 3383 by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 70, Chapter 4, Part 1, is amended by adding the following as a new section:

70-4-133.

(a) It is the intent of this section to address the illegal translocation and release of wild-appearing swine. These animals have been shown to be destructive to native habitats, agricultural lands and private property and are carriers for a myriad of diseases that affect humans, livestock and wildlife.

(b) It is not the intent of this section to impede the legal transportation of swine that are regulated by the department of agriculture.

(c) As used in this section, "wild-appearing swine" means swine that are, at maturity, two feet to three feet (2' – 3') tall and three and one-half feet to five feet (3 ½' -- 5') long and, at maturity, have the following physical features in comparison to domestic swine:

(1) Massive heads with smaller, pointed and heavily-furred ears;

(2) Heavier shoulders that slope down to small hips, giving the animal an outline similar to an American bison;

(3) Long and thin snouts;

(4) Upper tusks or whitters that curl up and out and rub against the lower tusks, making a knifelike edge against the lower tusks; and

(5) Straight tails that are tufted at the tip.

(d) It is an offense for any person to knowingly transport or release into the wild, or cause to be transported into or within the state, live wild-appearing swine that do not have documentation approved by the department of agriculture.

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

(e) Notwithstanding the provisions of § 70-6-101, any stop, search or arrest pursuant to this section by an officer of the agency shall be predicated upon reasonable suspicion that a violation of this section has occurred.

(f) A violation of subsection (d) is a Class A misdemeanor. Each undocumented wild-appearing swine illegally transported or released in violation of subsection (d) is a separate offense.

SECTION 2. This act shall take effect July 1, 2012, the public welfare requiring it.

On motion, Amendment No. 2 was adopted.

Rep. Lollar moved that **Senate Bill No. 2879**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 91
Noes..... 2

Representatives voting aye were: Alexander, Armstrong, Brooks K, Brown, Butt, Campbell, Camper, Carr, Casada, Cobb, Coley, Cooper, Curtiss, Dean, DeBerry J, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Favors, Fitzhugh, Floyd, Ford, Gilmore, Gotto, Halford, Hall, Hardaway, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones, Keisling, Kernell, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McDonald, McManus, Miller D, Miller L, Montgomery, Moore, Niceley, Parkinson, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sargent, Sexton, Shepard, Shipley, Sontany, Sparks, Stewart, Swann, Tidwell, Tindell, Todd, Towns, Turner J, Turner M, Watson, Weaver, White, Williams K, Williams R, Wirgau, Womick, Madam Speaker Harwell -- 91

Representatives voting no were: Forgety, Windle -- 2

A motion to reconsider was tabled.

REQUEST TO CHANGE VOTE

Pursuant to **Rule No. 31**, the following member(s) desire to change their original stand from "not voting" to "aye" on the Consent Calendar and have this statement entered in the Journal: Rep(s). Brown.

REGULAR CALENDAR, CONTINUED

***House Bill No. 3129** -- Criminal Offenses - As introduced, corrects the chemical compound, Benzoylindoles, found in illegal drugs such as hallucinogenic plants, from "Pravadoline (WIN 48, 09)" to "Pravadoline (WIN 48, 098)". - Amends TCA Title 39, Chapter 17. by *Parkinson, *Hardaway. (SB3517 by *Tate)

Further consideration of House Bill No. 3129 previously considered on April 9, 2012, at which time it was objected to on the Consent Calendar and reset for today's Regular Calendar.

Rep. Parkinson moved that **House Bill No. 3129** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 97
Noes..... 0

Representatives voting aye were: Alexander, Armstrong, Brooks H, Brooks K, Brown, Butt, Campbell, Camper, Carr, Casada, Cobb, Coley, Cooper, Curtiss, Dean, DeBerry J, DeBerry L, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Favors, Fitzhugh, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Hardaway, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones, Keisling, Kernell, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McDonald, McManus, Miller D, Miller L, Montgomery, Moore, Naifeh, Niceley, Parkinson, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sargent, Sexton, Shaw, Shepard, Shipley, Sontany, Sparks, Stewart, Swann, Tidwell, Tindell, Todd, Towns, Turner J, Turner M, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 97

A motion to reconsider was tabled.

***House Bill No. 2664** -- Health Care - As introduced, requires health care providers to report injuries that appear to result from an illegal female genital mutilation. - Amends TCA Title 38; Title 39; Title 63 and Title 68. by *Faison, *Womick, *Hardaway. (SB2559 by *Ketron, *Ford)

Further consideration of House Bill No. 2664 previously considered on April 9, 2012, at which time it was objected to on the Consent Calendar and reset for today's Regular Calendar.

On motion, House Bill No. 2664 was made to conform with **Senate Bill No. 2559**; the Senate Bill was substituted for the House Bill.

Rep. Faison moved that Senate Bill No. 2559 be passed on third and final consideration.

Rep. Hill moved the previous question, which motion prevailed by the following vote:

Ayes 71
Noes..... 23

Representatives voting aye were: Alexander, Brooks H, Brooks K, Butt, Campbell, Carr, Casada, Cobb, Coley, Curtiss, Dean, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Favors, Fitzhugh, Floyd, Ford, Forgety, Gotto, Halford, Hall, Harmon, Harrison, Hawk, Hill, Holt, Hurley, Johnson C, Johnson P, Keisling, Kernell, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock,

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

McCormick, McDaniel, McManus, Miller D, Montgomery, Niceley, Pody, Powers, Ragan, Ramsey, Rich, Roach, Sanderson, Sargent, Sexton, Shipley, Sparks, Swann, Tindell, Todd, Turner M, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 71

Representatives voting no were: Brown, Camper, Cooper, DeBerry J, DeBerry L, Gilmore, Hardaway, Haynes, Hensley, Jones, McDonald, Miller L, Moore, Naifeh, Parkinson, Pruitt, Richardson, Shepard, Sontany, Stewart, Tidwell, Towns, Turner J -- 23

Rep. Faison moved that **Senate Bill No. 2559** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 94
Noes..... 0

Representatives voting aye were: Alexander, Armstrong, Brooks H, Brooks K, Brown, Butt, Campbell, Camper, Carr, Casada, Cobb, Coley, Curtiss, Dean, DeBerry J, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Favors, Fitzhugh, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Hardaway, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones, Keisling, Kernell, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McDonald, McManus, Miller D, Miller L, Montgomery, Moore, Niceley, Parkinson, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sargent, Sexton, Shaw, Shepard, Shipley, Sontany, Sparks, Stewart, Swann, Tidwell, Tindell, Todd, Towns, Turner J, Turner M, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 94

A motion to reconsider was tabled.

***House Bill No. 2893** -- Children's Services, Dept. of - As introduced, adds additional language to the department's mission/purpose. - Amends TCA Section 37-5-102. by *Jones S. (SB3032 by *Marrero , *Ford, *Harper, *Kyle)

Further consideration of House Bill No. 2893 previously considered on April 9, 2012,at which time it was objected to on the Consent Calendar and reset for today's Regular Calendar.

On motion, House Bill No. 2893 was made to conform with **Senate Bill No. 3032**; the Senate Bill was substituted for the House Bill.

Rep. S. Jones moved that **Senate Bill No. 3032** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 94
Noes..... 0

Representatives voting aye were: Alexander, Armstrong, Brooks K, Brown, Butt, Campbell, Camper, Carr, Casada, Cobb, Coley, Cooper, Curtiss, Dean, DeBerry J, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Favors, Fitzhugh, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Hardaway, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones, Keisling, Kernell, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McDonald, McManus, Miller D, Miller L, Montgomery, Moore, Niceley,

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

Parkinson, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sargent, Sexton, Shaw, Shepard, Shipley, Sontany, Sparks, Stewart, Swann, Tidwell, Tindell, Todd, Towns, Turner J, Turner M, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 94

A motion to reconsider was tabled.

House Bill No. 3809 -- Fiscal Review Committee - As introduced, codifies position of committee's executive director who is hired subject to majority vote of committee; attaches committee to general assembly for administrative purposes. - Amends TCA Title 3, Chapter 7. by *Sargent. (*SB3580 by *Ketron)

Further consideration of House Bill No. 3809 previously considered on April 9, 2012, at which time it was objected to on the Consent Calendar and reset for today's Regular Calendar.

On motion, House Bill No. 3809 was made to conform with **Senate Bill No. 3580**; the Senate Bill was substituted for the House Bill.

Rep. Sargent moved that **Senate Bill No. 3580** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 97
Noes..... 0

Representatives voting aye were: Alexander, Armstrong, Brooks H, Brooks K, Brown, Butt, Campbell, Camper, Carr, Casada, Cobb, Coley, Cooper, Curtiss, Dean, DeBerry J, DeBerry L, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Favors, Fitzhugh, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Hardaway, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones, Keisling, Kernell, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McDonald, McManus, Miller D, Miller L, Montgomery, Moore, Naifeh, Niceley, Parkinson, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sargent, Sexton, Shaw, Shepard, Shipley, Sontany, Sparks, Stewart, Swann, Tidwell, Tindell, Todd, Towns, Turner J, Turner M, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 97

A motion to reconsider was tabled.

House Bill No. 3705 -- Education, Higher - As introduced, requires public institutions of higher education to report annually to the education committees of the senate and the house on the filling of positions at the institutions. - Amends TCA Title 49, Chapter 7, Part 1. by *McCormick. (*SB3751 by *Tracy)

Further consideration of House Bill No. 3705 previously considered on April 5, 2012 and April 9, 2012, at which time it was reset for today's Regular Calendar.

On motion, House Bill No. 3705 was made to conform with **Senate Bill No. 3751**; the Senate Bill was substituted for the House Bill.

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

Rep. McCormick moved that Senate Bill No. 3751 be passed on third and final consideration.

Rep. Montgomery moved that Education Committee Amendment No. 1 be withdrawn, which motion prevailed.

Rep. Montgomery moved that Education Committee Amendment No. 2 be withdrawn, which motion prevailed.

Rep. McCormick moved that Senate Bill No. 3751 be reset for the Regular Calendar on April 12, 2012, which motion prevailed.

Senate Bill No. 1688 -- Schools, Charter - As introduced, requires public charter school's annual renewal application to include the number of students who attended the school in the most recently completed academic year and the schools that those students attended prior to enrolling at the charter school. - Amends TCA Title 49. by *Faulk, *McNally, *Overbey. (*HB1970 by *Swann)

Further consideration of Senate Bill No. 1688 previously considered on today's Calendar, at which time the House substituted the Senate Bill for the House Bill and withdrew Amendment(s) No(s). 1 and 2.

Rep. Swann moved that Senate Bill No. 1688 be passed on third and final consideration.

Rep. Swann moved that Senate Bill No. 1688 be reset for the Regular Calendar on April 12, 2012, which motion prevailed.

MESSAGE CALENDAR

HOUSE ACTION ON SENATE AMENDMENTS

***House Bill No. 1105** -- Education - As introduced, requires an LEA revising its policy prohibiting harassment, intimidation, or bullying, which was filed with the commissioner of education, to transmit the revised policy to the commissioner. - Amends TCA Title 49. by *Montgomery, *Maggart. (SB1923 by *Gresham)

Amendment No. 2

AMEND Senate Bill No. 1923 by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. Tennessee Code Annotated, Title 49, Chapter 2, Part 1, is amended by adding the following language as a new, appropriately designated section:

(a) If by majority vote of its total membership the governing body of a municipality determines that a city school system: (1) is authorized by the municipality's charter, as set forth by statute or private act; (2) would promote the public welfare through enhancement of educational innovation, opportunity, and achievement; and (3) would possess a student population of sufficient size to

comply with state requirements; then the governing body is hereby authorized to request the county election commission to conduct a referendum pursuant to § 49-2-106. The referendum may be conducted at either a general or special election held throughout the municipality; provided, however, if a special election is requested, then the municipality shall pay the costs of the special election.

(b) If a majority of the voters participating in the referendum elect to raise local funds to support the proposed city school system, then the governing body of the municipality is hereby authorized to establish, by ordinance, a city board of education in compliance with § 49-2-201 and this section.

(c)

(1) Members of the city board of education shall be elected from districts of substantially equal population; and the governing body of the municipality, by ordinance, shall establish the districts. There shall be not less than three (3) nor more than eleven (11) members. In order to comply with the § 49-2-201 requirement that the members be elected to staggered four-year terms, the governing body of the municipality is hereby authorized to establish initial terms that vary in length; provided, however, all subsequently elected members, other than members elected to fill a vacancy, shall be elected to four-year terms.

(2) The governing body of the municipality is hereby authorized to request the county election commission to conduct an election to select the members of the initial city board of education. The election may be conducted at either a general or special election held throughout the municipality; provided, however, if a special election is requested, then the municipality shall pay the costs of the special election.

(d) The members of the initial city board of education shall take office on the first day of the first month following certification of the election results.

(e) The initial city board of education is hereby authorized to plan and manage the formation of the city school system as well as to manage and operate the system once student instruction commences. The initial board of education shall have all powers and duties granted or required of boards of education under § 49-2-203 or other general law, including, but not limited to, employment of a full-time director of schools; employment of teachers and staff required to operate the city school system; and construction, acquisition, lease, or modification of buildings and facilities suitable for school purposes.

(f) Schools in the city school system shall open for student instruction between August 1 and the first Tuesday following Labor Day of the school year immediately following the commissioner's finding of the system's compliance with applicable state law and readiness to commence student instruction.

(g) Notwithstanding any provision of title 6 or § 49-2-502 or any other law to the contrary, this section shall govern any municipality actively considering or planning, on or after the effective date of this act, the formation of a new city school system.

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

Rep. Montgomery moved that the House concur in Senate Amendment(s) No(s). 2 to House Bill No. 1105.

Rep. Naifeh moved that the motion to concur in Senate Amendment No. 2 to House Bill No. 1105 be tabled, which motion failed by the following vote:

Ayes	39
Noes.....	51

Representatives voting aye were: Armstrong, Brown, Camper, Carr, Cooper, Curtiss, DeBerry J, DeBerry L, Dunn, Favors, Fitzhugh, Gilmore, Halford, Hall, Harmon, Hawk, Haynes, Hensley, Johnson P, Jones, Kernell, McDaniel, Miller L, Moore, Naifeh, Parkinson, Pitts, Richardson, Roach, Sanderson, Shaw, Shepard, Shipley, Sontany, Stewart, Tidwell, Towns, Turner M, Windle -- 39

Representatives voting no were: Alexander, Brooks K, Butt, Casada, Cobb, Coley, Dean, Dennis, Elam, Eldridge, Evans, Faison, Floyd, Ford, Forgety, Hardaway, Harrison, Hill, Holt, Johnson C, Keisling, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDonald, McManus, Miller D, Montgomery, Niceley, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Sargent, Sexton, Sparks, Swann, Todd, Turner J, Watson, Weaver, White, Wirgau, Womick, Madam Speaker Harwell -- 51

Rep. Montgomery moved that the motion to concur in Senate Amendment No. 2 be withdrawn, which motion prevailed.

Rep. Montgomery moved that the House nonconcur in Senate Amendment(s) No(s). 2 to **House Bill No. 1105**, which motion prevailed.

REQUEST TO CHANGE VOTE

Pursuant to **Rule No. 31**, the following member(s) desire to change their original stand from "no" to "aye" on **House Bill No. 1105** and have this statement entered in the Journal: Rep(s). McDonald.

MOTION TO RECONSIDER

Senate Bill No. 2609 -- Medical Occupations - As introduced, provides immunity to medical doctor or osteopathic physician who makes a report to law enforcement regarding an employee's unauthorized use of the doctor or physician's DEA registration number to write prescriptions. - Amends TCA Title 63, Chapter 9 and Title 63, Chapter 6. by *Burks. (*HB2684 by *Williams R, *Hensley, *White, *Hurley, *Ragan, *Hall)

Rep. R. Williams moved to lift from the table the motion to reconsider action in passing Senate Bill No. 2609, which motion prevailed.

Rep. R. Williams moved to reconsider action in passing Senate Bill No. 2609, which motion prevailed.

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

Rep. R. Williams moved that Senate Bill No. 2609, as amended, be passed on third and final consideration.

Rep. Casada moved that the House reconsider its action in adopting Amendment No. 1, which motion prevailed.

Rep. Casada moved that Amendment No. 1 be withdrawn, which motion prevailed.

Rep. R. Williams moved that **Senate Bill No. 2609** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 96
Noes..... 0

Representatives voting aye were: Alexander, Armstrong, Brooks H, Brooks K, Brown, Butt, Campbell, Camper, Carr, Casada, Cobb, Coley, Cooper, Curtiss, Dean, DeBerry J, DeBerry L, Dunn, Elam, Eldridge, Evans, Faison, Favors, Fitzhugh, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Hardaway, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones, Keisling, Kernell, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McDonald, McManus, Miller D, Miller L, Montgomery, Moore, Naifeh, Niceley, Parkinson, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sargent, Sexton, Shaw, Shepard, Shipley, Sontany, Sparks, Stewart, Swann, Tidwell, Tindell, Todd, Towns, Turner J, Turner M, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 96

A motion to reconsider was tabled.

UNFINISHED BUSINESS

NOTICE TO ACT ON SENATE MESSAGES

Pursuant to **Rule No. 59**, notice was given that the following measure(s) from the Senate would be considered on April 16, 2012:

House Bill No. 2639: by Rep. Watson

RULES SUSPENDED

Rep. McCormick moved that the rules be suspended in order to allow all bills and resolutions passed out of Committee today or tomorrow to be heard in the appropriate Committee or Subcommittee next week.

Without objection, it was so ordered.

RULES SUSPENDED

Rep. Hardaway moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 891 out of order, which motion prevailed.

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

House Joint Resolution No. 891 -- Memorials, Recognition - Reverend Jesse Jackson, Sr. by *Hardaway, *Parkinson, *Favors, *Brown, *Camper, *Shaw, *Turner M, *Towns, *Pruitt, *Miller L, *Armstrong, *Cooper B, *Gilmore, *Turner J.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Rep. Hardaway, the resolution was adopted.

A motion to reconsider was tabled.

REQUEST TO CHANGE VOTE

Pursuant to **Rule No. 31**, the following member(s) desire to change their original stand from “aye” to “no” on the voice vote on **House Joint Resolution No. 891** and have this statement entered in the Journal: Rep(s). Butt, Dennis, Evans, Faison, Holt and Shipley.

RULES SUSPENDED

Rep. Moore moved that the rules be suspended for the immediate consideration of Senate Joint Resolution No. 759 out of order, which motion prevailed.

Senate Joint Resolution No. 759 -- Memorials, Public Service - Senator Joe M. Haynes, Jr. by *Henry, *Harper, *Johnson, *Berke, *Finney L, *Kyle, *Marrero, *Herron, *Stewart, *Burks, *Tate, *Ford, *Barnes, *Norris, *Southerland, *Gresham, *Kelsey, *Beavers, *Watson, *Tracy, *Summerville, *Massey, *Overbey, *Faulk, *Crowe, *Yager, *McNally, *Ketron.

On motion of Rep. Moore, the resolution was concurred in.

A motion to reconsider was tabled.

RULES SUSPENDED

Rep. R. Williams moved that the rules be suspended for the immediate consideration of Senate Joint Resolution No. 671 out of order, which motion prevailed.

***Senate Joint Resolution No. 671** -- Naming and Designating - "Child Abuse Prevention Month," April 2012. by *Burks, *Marrero, *Barnes, *Beavers, *Bell, *Berke, *Campfield, *Crowe, *Faulk, *Finney L, *Ford, *Gresham, *Harper, *Haynes, *Henry, *Herron, *Johnson, *Kelsey, *Ketron, *Kyle, *Massey, *McNally, *Norris, *Overbey, *Roberts, *Southerland, *Stewart, *Summerville, *Tate, *Tracy, *Watson, *Yager, *Ramsey.

On motion of Rep. R. Williams, the resolution was concurred in.

A motion to reconsider was tabled.

MOTION TO PLACE BILL ON CALENDAR

Rep. Coley moved that House Bill No. 2167, held on the Clerk's desk, be placed on the Regular Calendar for April 16, 2012, which motion prevailed.

SPONSORS ADDED

Under **Rule No. 43**, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Joint Resolution No. 783 Rep(s). S. Jones as first prime sponsor(s).

House Joint Resolution No. 890 Rep(s). Naifeh, Shepard, Camper, L. Miller, Shaw, J. DeBerry, Pruitt, Fitzhugh, Kernell, Armstrong, Pitts, J. Turner, Tindell, Harmon, Windle, Odom, S. Jones, Gilmore, Curtiss, Sontany, B. Cooper, McDonald, Richardson, Towns, Stewart, L. DeBerry, Brown, Favors, Hardaway, Tidwell and Parkinson as prime sponsor(s).

House Bill No. 1105 Rep(s). Todd as prime sponsor(s).

House Bill No. 1854 Rep(s). Hardaway as prime sponsor(s).

House Bill No. 1970 Rep(s). Hardaway, Towns, Fitzhugh, Montgomery, Richardson, B. Cooper and White as prime sponsor(s).

House Bill No. 2840 Rep(s). Carr as prime sponsor(s).

House Bill No. 2865 Rep(s). L. DeBerry, Pitts, McDonald and Fitzhugh as prime sponsor(s).

House Bill No. 2974 Rep(s). Hardaway as prime sponsor(s).

House Bill No. 3069 Rep(s). S. Jones as prime sponsor(s).

House Bill No. 3070 Rep(s). S. Jones as prime sponsor(s).

House Bill No. 3382 Rep(s). Windle as prime sponsor(s).

House Bill No. 3504 Rep(s). McDaniel, K. Williams and R. Williams as prime sponsor(s).

House Bill No. 3611 Rep(s). Pitts, Powers, Montgomery, Ragan, H. Brooks, Hardaway, Lollar, Maggart, Forgety, Dunn, Hensley, Windle, L. DeBerry and J. DeBerry as prime sponsor(s).

House Bill No. 3835 Rep(s). McCormick as prime sponsor(s).

House Bill No. 3836 Rep(s). McCormick as prime sponsor(s).

House Bill No. 3837 Rep(s). McCormick as prime sponsor(s).

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

House Bill No. 3838 Rep(s). McCormick as prime sponsor(s).

House Bill No. 3839 Rep(s). McCormick as prime sponsor(s).

SPONSORS REMOVED

On motion, Rep(s). Haynes was/were removed as sponsor(s) of **House Bill No. 3520**.

On motion, Rep(s). McCormick and Dennis was/were removed as sponsor(s) of **House Bill No. 3835**.

On motion, Rep(s). McCormick was/were removed as sponsor(s) of **House Bill No. 3836**.

On motion, Rep(s). McCormick was/were removed as sponsor(s) of **House Bill No. 3837**.

On motion, Rep(s). McCormick was/were removed as sponsor(s) of **House Bill No. 3838**.

On motion, Rep(s). McCormick was/were removed as sponsor(s) of **House Bill No. 3839**.

ENGROSSED BILLS
April 11, 2012

MADAM SPEAKER: The following bill(s) have been examined, engrossed and are ready for transmission to the Senate: House Bill(s) No(s). 1572;

BETTY KAY FRANCIS, Chief Engrossing Clerk

ENGROSSED BILLS
April 11, 2012

MADAM SPEAKER: The following bills have been examined, engrossed and are ready for transmission to the Senate: House Bill(s) No(s). 2823; and House Joint Resolution(s) No(s). 766, 869 and 871.

BETTY KAY FRANCIS, Chief Engrossing Clerk

MESSAGE FROM THE SENATE
April 11, 2012

MADAM SPEAKER: I am directed to return to the House, House Bill(s) No(s). 429; substituted for Senate Bill(s) on same subject(s) and passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

MESSAGE FROM THE GOVERNOR
April 11, 2012

MADAM SPEAKER: I am directed by the Governor to return herewith: House Joint Resolution(s) No(s). 557, 577, 649, 664, 695, 812, 823, 842 and 846; with his approval.

HERBERT H. SLATTERY III, Counsel to the Governor

ENGROSSED BILLS
April 11, 2012

MADAM SPEAKER: The following bill(s) have been examined, engrossed and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 891;

BETTY KAY FRANCIS, Chief Engrossing Clerk

ENGROSSED BILLS
April 11, 2012

MADAM SPEAKER: The following bill(s) have been examined, engrossed and are ready for transmission to the Senate: House Bill(s) No(s). 2384, 2890 and 3129.

BETTY KAY FRANCIS, Chief Engrossing Clerk

MESSAGE FROM THE SENATE
April 11, 2012

MADAM SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 849, 850, 851, 852 and 860; concurred in by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk

ENROLLED BILLS
April 11, 2012

MADAM SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared House Resolution(s) No(s). 195, 237 and 240; and find same correctly enrolled and ready for the signature of the Speaker.

BETTY KAY FRANCIS, Chief Engrossing Clerk

ENROLLED BILLS
April 11, 2012

MADAM SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared House Joint Resolution(s) No(s). 849, 850, 851, 852 and 860; and find same correctly enrolled and ready for the signatures of the Speakers.

BETTY KAY FRANCIS, Chief Engrossing Clerk

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

**SIGNED
April 11, 2012**

The Speaker announced that she had signed the following: House Joint Resolution(s) No(s). 849, 850, 851, 852 and 860.

BETTY KAY FRANCIS, Chief Engrossing Clerk

**SIGNED
April 11, 2012**

The Speaker announced that she had signed the following: House Resolution(s) No(s). 195, 237 and 240.

BETTY KAY FRANCIS, Chief Engrossing Clerk

**MESSAGE FROM THE SENATE
April 11, 2012**

MADAM SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 849, 850, 851, 852 and 860; signed by the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk

**REPORT OF CHIEF ENGROSSING CLERK
April 11, 2012**

MADAM SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: House Joint Resolution(s) No(s). 849, 850, 851, 852 and 860; for his action.

BETTY KAY FRANCIS, Chief Engrossing Clerk

**SIGNED
April 11, 2012**

The Speaker announced that she had signed the following: House Bill(s) No(s). 2237, 2456, 2612, 2806, 2861, 2961, 2978, 3323, 3443, 3505, 3581, 3717 and 3792.

BETTY KAY FRANCIS, Chief Engrossing Clerk

**MESSAGE FROM THE SENATE
April 11, 2012**

MADAM SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 734, 735, 736, 737, 739, 740 and 741; adopted, for the House's action.

RUSSELL A. HUMPHREY, Chief Clerk

Senate Joint Resolution No. 734 -- Memorials, Academic Achievement - Alec Mullen, Salutatorian, Mount Juliet High School. by *Beavers.

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

Senate Joint Resolution No. 735 -- Memorials, Academic Achievement - Forrest Goodwin, Valedictorian, Mt. Juliet High School. by *Beavers.

Senate Joint Resolution No. 736 -- Memorials, Recognition - Catholic Diocese of Nashville, 175th Anniversary. by *Henry, *Ford, *Gresham, *Herron, *McNally.

Senate Joint Resolution No. 737 -- Memorials, Retirement - Clint Parnell. by *Haynes.

Senate Joint Resolution No. 739 -- Memorials, Retirement - Assistant Chief James T. Carroll, Chattanooga Police Department. by *Watson, *Berke.

Senate Joint Resolution No. 740 -- Memorials, Death - Haynes Edwin Elliott. by *Crowe.

Senate Joint Resolution No. 741 -- Memorials, Recognition - Patsy Hazlewood, 2012 Tennessee Woman of Distinction. by *Berke, *Ford, *Watson.

MESSAGE FROM THE SENATE
April 11, 2012

MADAM SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 948, 1329 and 1504; passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk

***Senate Bill No. 948** -- Parks, Natural Areas Preservation - As introduced, increases from two to three years time after designation into the system that the commissioner of environment and conservation have completed a comprehensive plan of development and protection and begun the process of acquisition. - Amends TCA Title 11. by *Johnson. (HB1455 by *Sargent, *Hawk)

Senate Bill No. 1329 -- Local Government, General - As introduced, applies certain regulations on a state-wide basis concerning hours of operation, prohibited acts, and permitting regulations for employees and entertainers of adult-oriented establishments and adult cabarets. - Amends TCA Title 7. by *Kelsey. (*HB101 by *Hardaway, *McManus, *Todd, *Miller L)

Senate Bill No. 1504 -- Capitol - As introduced, creates David Crockett commission to oversee erection of monument or statue honoring David Crockett. by *Southerland, *Overbey. (*HB1788 by *Kernell, *Hawk)

MESSAGE FROM THE SENATE
April 11, 2012

MADAM SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 671, 723, 727, 728, 729, 730, 732 and 759; for the signature of the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk

**MESSAGE FROM THE SENATE
April 11, 2012**

MADAM SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2281, 2295, 2296, 2329, 2378, 2505, 2544, 2794, 3039, 3214, 3255, 3338, 3539, 3548, 3570 and 3863; signed by the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk

**MESSAGE FROM THE SENATE
April 11, 2012**

MADAM SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 68, 673, 1447, 2230, 2237, 2313, 2413, 2671, 2678, 2714, 2718, 2723, 2742, 2796, 2821, 2838, 2916, 2976, 2982, 2987, 3424, 3604 and 3627; for the signature of the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk

**SIGNED
April 11, 2012**

The Speaker announced that she had signed the following: Senate Joint Resolution(s) No(s). 671, 723, 727, 728 and 729.

**SIGNED
April 11, 2012**

The Speaker announced that she had signed the following: Senate Joint Resolution(s) No(s). 730, 732 and 759.

ROLL CALL

The roll call was taken with the following results:

Present..... 98

Representatives present were Alexander, Armstrong, Brooks H, Brooks K, Brown, Butt, Campbell, Camper, Carr, Casada, Cobb, Coley, Cooper, Curtiss, Dean, DeBerry J, DeBerry L, Dennis, Dunn, Elam, Eldridge, Evans, Faison, Favors, Fitzhugh, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Hardaway, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones, Keisling, Kernell, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McDonald, McManus, Miller D, Miller L, Montgomery, Moore, Naifeh, Niceley, Odom, Parkinson, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sargent, Sexton, Shaw, Shepard, Shipley, Sontany, Sparks, Stewart, Swann, Tidwell, Tindell, Todd, Towns, Turner J, Turner M, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 98

WEDNESDAY, APRIL 11, 2012 – SEVENTY-FIRST LEGISLATIVE DAY

RECESS MOTION

On motion of Rep. McCormick, the House stood in recess until 9:00 a.m., Thursday, April 12, 2012.